

STATE OF CALIFORNIA
Energy Resources Conservation
and Development Commission

In the Matter of:

Docket No. 98-AFC-1

Application for Certification of
the Pittsburg District Energy
Facility

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1516 9th Street
Sacramento, California

Reporter's Transcript

April 28, 1999

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Reported By: Keli Rutherford, CSR No. 10084

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APPEARANCES

Commissioners Present:

David A. Rohy, Ph.D.

Michal Moore

Staff Present:

Susan Gefter, Hearing Officer

For the Staff of the Commission:

Dick Ratliff

Lorraine White

For the Applicant:

Allan Thompson, Attorney at Law

Samuel L. Wehn, Enron Capital & Trade Resources Corp.

C.J. Patch, III, Patch Incorporated

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1 P R O C E E D I N G S

2 WEDNESDAY, APRIL 28, 1999, SACRAMENTO, CALIFORNIA 2:13 p.m.

3 COMMISSIONER ROHY: Good afternoon, and welcome to
4 the Pittsburg District Energy Facility evidentiary hearings.
5 We're here today to conduct evidentiary hearings on Enron's
6 Application for Certification for the Pittsburg District
7 Energy Facility.

8 Before we begin I'd like to introduce the committee
9 and ask the parties to identify themselves for the record.
10 I'm David Rohy. I'm presiding member of the committee. Two
11 to my right is Michael Moore, commissioner, second on the
12 committee. In the middle we have Ms. Susan Gefter, our
13 hearing officer. To my left is Bob Eller, my advisor, and
14 to my far right is Sean Pittard, advisor to Mr. Moore.

15 MR. THOMPSON: Thank you. Good afternoon. My name
16 is Allan Thompson. I'm licensing representative of Enron
17 for the Pittsburg project. I have sitting to my right
18 Mr. Sam Wehn, who is the Enron project manager. In the
19 audience we have Mr. David Parquet, who is regional business
20 development manager for Enron and Jeff Kolin, who is the
21 Pittsburg city manager, Joe Patch from Patch Incorporated,
22 the engineering firm doing the engineering project, and then
23 Robert Ray, Tim Cohen from URS Greiner Woodward-Clyde, our
24 environmental consultants.

25 COMMISSIONER ROHY: Thank you. Staff?

26 MS. WHITE: Lorraine White of the staff, project

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1 manager responsible for coordinating staff's analysis of the
2 proposed district energy facility.

3 MR. NEWHOUSE: I'm Greg Newhouse, environmental
4 office manager in the Energy Facility Siting Division.

5 MR. RATLIFF: Dick Ratliff, counsel to staff.

6 MR. NISHIMURA: Bob Nishimura with Bay Area AQMD, a
7 supervising engineer.

8 COMMISSIONER ROHY: Pleased to have you. I would
9 have asked you in a moment, but thank you for introducing
10 yourself.

11 COMMISSIONER ROHY: Intervenors?

12 MS. POOLE: Kate Poole representing California Unions
13 for Reliable Energy.

14 COMMISSIONER ROHY: Anyone from CAP-IT today? City
15 of Antioch? Delta Energy Center?

16 MR. AUGUSTINE: David Augustine with CH2M Hill
17 representing Calpine.

18 COMMISSIONER ROHY: Thank you. Did you get that?

19 Our public advisor, is she here? I believe many of
20 you know Roberta Mendonca. She's our public advisor and not
21 in attendance, for the record.

22 Agencies: City of Pittsburg?

23 MR. KOLIN: Jeff Kolin, city manager.

24 COMMISSIONER ROHY: And Bay Area, we have the
25 introduction there, Air Quality District.

26 Delta Diablo Waste Water Facility?

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1 MR. CAUSEY: Paul Causey and Greg Baatrup.

2 COMMISSIONER ROHY: Some of these acronyms get tough.

3 California ISO? Don't have a representative. Any
4 other people here wish to introduce themselves as members of
5 the public?

6 Hearing none, I'd like to turn over the proceedings
7 to our hearing officer, Ms. Gefter.

8 HEARING OFFICER GEFTER: At this point the committee
9 will conduct a scheduling conference. The scheduling
10 conference is not part of the evidentiary hearing, and the
11 discussion will not constitute testimony in this case.

12 As background, on April 6th, 1999, the committee
13 issued a notice scheduling these evidentiary hearings and
14 establishing a schedule setting forth the milestone dates in
15 this manner through July 28th.

16 The schedule was based on the assumption that the Air
17 District's final Determination of Compliance would be
18 released by mid-May and that all hearings would be concluded
19 by the end of May. The staff assessment which was issued on
20 March 9th states that staff's analysis on air quality would
21 not be completed pending release of the final DOC.

22 The committee takes administrative notice of the
23 comment period on the district's preliminary DOC closed on
24 April 23rd, and several comments were filed by staff, the
25 California Air Resources Board, and U.S. Environmental
26 Protection Agency. In light of these comments, we believe

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1 that the time table for the Air District's release of its
2 final DOC may delay the date for hearings on air quality.

3 Given that, we have several questions that we wanted
4 to pose to the applicant to liaison discussion of how the
5 schedule may proceed from here.

6 MR. ELLER: I have a number of questions on the
7 proposed configurations for the power plant. Applicant has
8 proposed two configurations: One is Westinghouse, and one
9 is General Electric.

10 Are the expected emission characteristics of these
11 turbines the same?

12 MR. WEHN: No.

13 MR. ELLER: What are the expected differences between
14 them? Is one of them cleaner? Dirtier? Can you comment on
15 that?

16 MR. WEHN: We selected the worst-case turbine was the
17 Westinghouse turbine. As we have indicated in our previous
18 conferences that we had purchased General Electric. In our
19 most recent conference that we had with the district, as
20 well as the Commission staff, we adjusted some of those
21 emission numbers downward, and that was to take into account
22 the fact that we went from a Westinghouse worst-case
23 condition to a General Electric turbine.

24 MR. ELLER: Are there other differences in the
25 potential impacts of these turbines? For example, waste
26 products? Water use?

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1 MR. WEHN: No.

2 HEARING OFFICER GEFTER: I just want to take a moment

3 to indicate the public advisor is now present. Roberta

4 Mendonca is present in the back in the red jacket, if anyone

5 needs her assistance.

6 MR. ELLER: Does your current preliminary

7 Determination of Compliance with the Bay Area Air Quality

8 Management, is it based on one of these turbines, selection

9 of one of these turbines?

10 MR. WEHN: It was based on the worst-case turbine,

11 which is the Westinghouse turbine. And again, as I

12 mentioned, modified yesterday in a conference call that we

13 had.

14 MR. ELLER: I believe -- I'm looking for a copy of

15 the preliminary Determination of Compliance -- it discusses

16 only the General Electric turbine set; is that correct?

17 I'll look to the district for an answer on that.

18 MR. NISHIMURA: Yes, it does. But basically normally

19 what we do is we specify a piece of equipment or we say

20 "equivalent."

21 MR. ELLER: In your mind is the General Electric

22 turbine equivalent to the Westinghouse turbine proposed by

23 the applicant?

24 MR. NISHIMURA: According to the engineer that

25 evaluated, he told me that the Westinghouse turbine is

26 dirtier.

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1 MR. ELLER: Would that require you to reissue a
2 preliminary Determination of Compliance if the applicant was
3 to select the Westinghouse turbine?

4 MR. NISHIMURA: No, it doesn't, as long as they are
5 willing to meet the turbine conditions.

6 COMMISSIONER MOORE: Let me understand that if they
7 can't -- if it's dirtier, how can they meet the permit
8 conditions if they were designed for the turbine that was
9 cleaner?

10 MR. NISHIMURA: Actually, the turbine has controls on
11 it, and we look at the emissions that come out of the stack.

12 COMMISSIONER MOORE: Then it's not dirtier, then it's
13 the same.

14 MR. NISHIMURA: If you look at it from a simple
15 cycle, it is dirtier. But if you look at it from the total
16 unit itself, it's just as clean as the G.E. turbine.

17 COMMISSIONER MOORE: Which way are you looking at it?

18 MR. NISHIMURA: We're looking at it as coming out of
19 the stack, so how we look at it is the Westinghouse and the
20 G.E. turbine are equivalent.

21 COMMISSIONER MOORE: Thank you. No difference?

22 MR. NISHIMURA: That's correct.

23 MR. ELLER: So no matter what the applicant selects
24 as their final turbine set, there would not be an impact on
25 your current analysis? Or if it was to happen after the
26 final DOC was issued, that would not impact that?

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1 MR. NISHIMURA: That's correct.

2 MR. ELLER: Thank you.

3 COMMISSIONER ROHY: I would like to ask you about the
4 EPA comments that you received which indicate that the final
5 DOC cannot be issued until energy conduction permits have
6 been obtained.

7 Are the ERCs proposed for this facility fully
8 available for use by the applicant?

9 MR. NISHIMURA: Let me answer one -- the first one
10 that you asked me. Under our rules and regulations, the
11 applicant does not have to surrender those banking
12 certificate until they are ready to operate. It does not
13 say that they have to surrender it before the FDOC or before
14 the AC is issued, the authority construct.

15 So we're wondering where EPA made those -- why they
16 made those comments because under our rules and regulations,
17 they only have to surrender the banking applications before
18 construction.

19 The second question is that I was told that they are
20 going to be getting credits from a particular operation,
21 which is not banked yet, but however, is that the
22 certificate or the letter is going to be signed probably
23 either today or tomorrow or Friday, and then we have to go
24 out to a thirty-day public notice.

25 Once it goes out in public notice, if there's any
26 public comments that we have, we address them. If they are

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1 major, we have to take another look at the banking
2 application.

3 COMMISSIONER ROHY: And will this affect your final
4 DOC?

5 MR. NISHIMURA: If they get the credits from that
6 particular operation, the answer, it may be yes.

7 COMMISSIONER ROHY: How would that affect it?

8 MR. NISHIMURA: It may delay it, but we don't think
9 it will be delayed because we looked at this application
10 thoroughly, so we don't think that it will be delayed.

11 COMMISSIONER ROHY: Let me ask staff what the impact
12 on staff would be if there was such a delay?

13 MR. RATLIFF: We've discussed that, Commissioner,
14 among ourselves, and we're frankly intending to give -- if
15 the committee desires, to go ahead and file our testimony as
16 we planned in the middle of May for hearings in the second
17 half of May. We think we have, essentially, a resolution of
18 the issues that we did have with the applicant, and we think
19 we can go ahead and file the testimony for hearing on that
20 basis.

21 HEARING OFFICER GEFTER: I'd like to ask the
22 representative from the air district again: If the notice
23 regarding the offsets is published on Friday, for example,
24 and you wait thirty days for the comment period to end, then
25 will the final DOC -- and if there are no comments, then a
26 final DOC could then go out, say, a week after this thirty

1 day ends -- thirty days are ended, or how long after the
2 thirty-day comment period ends will we see a final DOC?

3 MR. NISHIMURA: Actually, the letter will be probably
4 signed either Thursday or Friday. But it has to be
5 published in a newspaper, and once it's published in a
6 newspaper, it's thirty days from that date.

7 HEARING OFFICER GEFTER: I understand that. But then
8 after the thirty-day comment period expires, how long after
9 that will we see a final DOC?

10 MR. NISHIMURA: About a week.

11 HEARING OFFICER GEFTER: So it would be a week.
12 We're looking at approximately six weeks now until a final
13 DOC can be issued if there are no significant comments on
14 the offsets?

15 MR. NISHIMURA: Maximum of six weeks.

16 COMMISSIONER MOORE: Maximum of six weeks?

17 MR. NISHIMURA: Yes.

18 COMMISSIONER MOORE: How do you justify that?

19 You had thirty days, and then a week after that, and
20 that isn't accounting for any major comments that have
21 caused revision.

22 How do you get the term "maximum" in there? Seems to
23 me it's a probable six weeks, but the maximum I don't
24 understand.

25 MR. NISHIMURA: Normally we don't get a whole lot of
26 comments on banking applications, and that's why I said

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1 maximum is that normally we just don't get a lot of
2 comments. And if we don't get any comments, once the thirty
3 days is over, we can go ahead and issue the certificate.

4 COMMISSIONER MOORE: Okay.

5 COMMISSIONER ROHY: I'd like to return to the EPA
6 letter because there was this concern which we've just
7 discussed, but there's a second concern over the way the
8 emissions are measured, and let's see. I believe they are
9 asking for two and a half parts per million volumetric over
10 a one-hour averaging time; is that your understanding?

11 MR. NISHIMURA: Yes, it is. We're not sure that that
12 is correct. We're going to be meeting with EPA next week to
13 talk about this. Basically they have gotten this
14 information from Southern California, South Coast AQMD, and
15 basically is that they took this information, which they
16 took it from a twenty-five megawatt unit, and this project
17 that we're looking at, basically, the simple cycle is a
18 hundred and seventy megawatts, so you can see what the scale
19 up is. It's almost an order of magnitude, so we believe --

20 COMMISSIONER ROHY: Excuse me.

21 MR. NISHIMURA: -- we believe that there is some
22 doubt on the 25 ppm or two and a half ppm for one hour. We
23 would like to see two and a half ppm averaged over three
24 hours.

25 COMMISSIONER ROHY: And you said -- I forget your
26 exact words, but led me to believe that there was, perhaps,

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1 more than a difference of opinion. It was a difference of
2 fact.

3 Do you believe it will be easy to convince EPA of
4 your point of view?

5 MR. NISHIMURA: We believe that we can convince EPA
6 of that, yes.

7 COMMISSIONER ROHY: Does applicant prepare to offer
8 two and a half ppm, parts per million, on a one-hour
9 averaging basis if that's, in fact, what prevails with EPA?

10 MR. WEHN: If that prevails, the answer is yes. But
11 that is not our first choice. Our first choice is,
12 obviously, how we filed it in the application at three-hour
13 averaging.

14 HEARING OFFICER GEFTER: Would it make a difference
15 if the project uses the Westinghouse turbine rather than the
16 G.E. turbine?

17 MR. WEHN: No, ma'am, it would not.

18 HEARING OFFICER GEFTER: Essentially it would make no
19 difference to the applicant whether you ended up with a G.E.
20 turbine or the Westinghouse turbine?

21 MR. WEHN: Certainly our preference is a G.E.
22 turbine.

23 HEARING OFFICER GEFTER: Why?

24 MR. WEHN: We've already made a commitment on the
25 equipment to get in line because most of the equipment
26 manufacturers are filling up their manufacturing slots, and

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1 without getting into the que, our project goes way on out
2 past the one.

3 COMMISSIONER ROHY: If you were asked by either the
4 Bay Area Air Quality District or the EPA to, in fact, employ
5 the technology that's suggested in their letters, would that
6 not also cause a rather lengthy delay?

7 I'm assuming from the comments from the Bay Area Air
8 Quality District that that equipment hasn't been designed
9 for this size of engine; is that correct?

10 MR. NISHIMURA: That's correct.

11 MR. WEHN: Since we're looking at a project down in
12 the south coast, we did have a number of conversations with
13 the gentleman that is proposing that, and actually, I
14 visited the plant with engineers.

15 It is our opinion, and it's our opinion also of other
16 engineering firms that are not small outfits, outfits like
17 Black & Veatch, that this is not a simple task of scaling up
18 from twenty-eight megawatts to a hundred and seventy. This
19 is a major issue.

20 As a matter of fact, that unit they are basing all of
21 their decisions on is really an R&D unit. I was out there
22 watching the engineer, has a problem, goes back to the
23 drawing board, addresses the issue, manufacturers a part,
24 installs it, tests it out to see what it's going to do for
25 him.

26 So these folks are not in a mode of proven

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1 technology. They are still working on that on twenty-eight
2 megawatts. You look at the results that they have. The
3 results are all over the scale. I mean, they have
4 excursions that are going above two and a half.

5 The big difference is we are coming in on this
6 project suggesting to you that our upper limit is two point
7 five. We're in violation at two point five one. That's not
8 what those folks are working against down south.

9 We don't believe right now that you can scale that
10 project up using that technology. It's not available yet.
11 ABB does not believe it's available yet, and they have now a
12 license with the SCONOX folks. So what I'm suggesting to
13 you is that ABB is working on it, but as I look at my clock
14 in April of 1999, it's not there.

15 COMMISSIONER ROHY: Thank you.

16 MR. WEHN: I would like to suggest that we would like
17 to put into place something that is proven, and that's why
18 we applied using SCRs.

19 COMMISSIONER ROHY: Just to be clarifying my own
20 mental picture of what you are proposing, this is the ultra
21 low NOx combustor with an SCR --

22 MR. WEHN: Yes

23 COMMISSIONER ROHY: -- to establish the number that
24 you just presented to us?

25 MR. WEHN: Yes.

26 COMMISSIONER ROHY: Thank you. As you can imagine,

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1 there's been a lot of confusing statements for about the
2 last week or so. This is our first opportunity to ask you
3 these questions and clarify some of these issues. That's
4 the reason for doing what we're doing now.

5 COMMISSIONER MOORE: Mr. Chairman, let me ask a
6 couple questions, if I can.

7 You prepared -- and actually I understand staff has
8 reviewed several alternative transmission routes.

9 Are those fixed today?

10 MR. WEHN: I believe they are.

11 COMMISSIONER MOORE: The final routes are fixed?

12 MR. WEHN: Yes.

13 COMMISSIONER MOORE: Including the underground
14 sections?

15 MR. WEHN: Yes.

16 COMMISSIONER MOORE: When we part company today, will
17 we have a map that shows us what the final proposed routes
18 are? Staff is satisfied with that?

19 MS. WHITE: Yes.

20 COMMISSIONER MOORE: And what about the water supply
21 pipeline routes? Are those identified and fixed?

22 MR. WEHN: Yes, they are.

23 COMMISSIONER MOORE: Those are all now final as far
24 as project description?

25 In terms of proposed facility, I know I was asking
26 questions before about the road, right now there was some

1 talk going around about a park.

2 Is there an addition of a park as a part and parcel
3 of this project or in cooperation with the city?

4 MR. THOMPSON: There is a park and the details of
5 which I think could be discussed by Mr. Kolin or Joe.
6 Mr. Kolin, the city manager, is more intimately familiar
7 with --

8 COMMISSIONER MOORE: All I want to know is is there a
9 proposal for something like that that will be part of the
10 mitigations.

11 MR. THOMPSON: Has been agreed to.

12 MR. WEHN: Can I clarify a point, please?

13 COMMISSIONER MOORE: Sure.

14 MR. WEHN: As part of the application, we have an
15 obligation to move the ball field, but the remaining park
16 improvements is going to be performed by the city of
17 Pittsburg, but we're in agreement that we are going to use
18 that as a part of the mitigation of the bypass route.

19 COMMISSIONER MOORE: The stacks were in excess of
20 city heighth when we talked last. You needed a variance for
21 that.

22 Have you applied for the variance?

23 MR. WEHN: Yes, we did, April 21st.

24 COMMISSIONER MOORE: Do you have any idea when the
25 city will actually hear the request on that?

26 MR. WEHN: The plan right now is --

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1 COMMISSIONER MOORE: It's ministerial; right?

2 MR. THOMPSON: They need an environmental review, and
3 the only document they can use for that review is the
4 presiding member's report. The way we have it lined up with
5 the city, I believe, is that immediately after the PMPD gets
6 filed with the city, they'll hold the meeting on the
7 variance.

8 COMMISSIONER MOORE: I hate to see the presiding
9 member caught in the position of having to wait for a
10 decision of the local government. I had to go through that.

11 MS. WHITE: Commissioner, we're obligated as lead
12 agency, the local agencies are required to use our
13 environmental documentation in making their --

14 MR. RATLIFF: Let me just add: That issue is
15 currently under discussion by general counsel who will be
16 discussing it with you. The particulars of this local
17 agency issue are different from those in Sutter, and I
18 believe they will discuss it with you in conjunction with
19 the hearing advisors.

20 COMMISSIONER ROHY: I'd like to clarify a position --
21 a situation we talked about a few moments ago, whether we,
22 in fact, can go forward -- and I suspect I'll be asking my
23 hearing officer here -- with a preliminary decision without
24 a final DOC?

25 HEARING OFFICER GEFTER: The record can be closed at
26 the conclusion of testimony on air quality. In the absence

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1 of a final DOC, the record will remain open for receiving
2 the final DOC prior to the time that we could go to the
3 Commission for adoption of the proposed decision. But it's
4 the committee's option, and we can decide if we want the
5 final DOC prior to that time.

6 MR. THOMPSON: If I may?

7 COMMISSIONER ROHY: Please.

8 MR. THOMPSON: There are two things that we are
9 presently in the process of doing, which hopefully we will
10 succeed in both and make it easier for the committee.

11 The first is, as you have heard from numerous
12 parties, there was a telephone conference yesterday
13 regarding the conditions of certification that originally, I
14 think, the draft came from staff to the district as part of
15 the staff's comments on the PDOC.

16 We believe that all of the issues that were
17 outstanding resulting from those comments have been
18 resolved, and we would hope that in a matter of days that we
19 could have a set of conditions of certification agreed to by
20 the district, the staff, and ourselves. Those conditions
21 would be the ones that would appear in the FDOC. So we
22 would hope that in fairly short order, we can submit to the
23 record the conditions that will appear in the FDOC, and we
24 think that would help matters.

25 The second is an effort by Enron to attempt to obtain
26 option agreements for offsets that would cover the amount

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1 that are represented by the ERCs that are going out to
2 public comment signature on Friday newspaper sometime
3 thereafter.

4 And we're hoping to do that, again, in very short
5 order, and we believe the message to the committee from that
6 would be, to give you some comfort, that even if the ERCs
7 that are undergoing public scrutiny and comment do not come
8 to fruition, for some reason, we have an option that we can
9 exercise on an equivalent number of offsets so that you, if
10 we can convince you to go forward, you would have some
11 assurance that the offsets would be there.

12 COMMISSIONER ROHY: This is a good lead-in to where I
13 was going to go to a question: At our previous conference,
14 we discussed a schedule where starting today we would start
15 evidentiary hearings, and we would cover all topics at that
16 time, I believe, except for air, which we agreed to cover on
17 or about the 20th to 25th of May, somewhere in that time
18 frame. Subsequently I heard there was the potential for
19 extending the water portion out to that date. Is that also
20 --

21 MR. RATLIFF: It's a portion -- a piece of the water
22 portion, what's called the cumulative impact analysis for
23 water. We intend to actually present testimony on most of
24 the water issues.

25 MS. WHITE: Tomorrow evening.

26 COMMISSIONER ROHY: Having said that, are all parties

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1 ready to go forward on that schedule, assuming that we will
2 close the record at the end of the, let's say, third week in
3 May when we have the last hearing?

4 MR. THOMPSON: We certainly are.

5 MS. WHITE: Yes, sir.

6 MR. RATLIFF: Yes, we are. And maybe the prior
7 example of the Crockett case will be one that you could look
8 at where the committee took the testimony prior to the
9 issuance of the FDOC and then accepted the FDOC later,
10 checking it to be sure that it was consistent with
11 representations that were made in testimony.

12 COMMISSIONER ROHY: Commissioner Moore, do you have
13 any questions?

14 COMMISSIONER MOORE: Yes. I would like to go out to
15 the cumulative impacts.

16 What form will we have the cumulative impact analysis
17 on the DOC, how will it talk to us about the cumulative
18 effects of this and the knock on projects that are coming,
19 one?

20 Two, I haven't heard yet how the analysis will
21 actually be able to be accomplished, given the testimony
22 that we had before on the nature and location of the
23 monitoring stations, so it's unclear to me how I will be
24 able to place reliance on the cumulative impact analysis
25 that comes forward, given what looked like timing
26 difficulties in terms of getting it altogether.

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1 I would have to say that, I'll put it as politely as
2 I can, I'm amazed that you can tell me that you'll be able
3 to get the DOC and work that into a credible,
4 comprehensible, and intelligible cumulative impact analysis
5 that I can actually use, not just put up on my bookshelf,
6 given the amount of time that you have. I'm prepared to be
7 impressed, but let's say I'm skeptical. So right now -- I'm
8 only one member here, but I cannot imagine that this is not
9 going to be force fit in order to make these deadlines.

10 I want you to assure me that the mechanics are there
11 to be able to complete the analysis, the cumulative impact
12 analysis, and I include in this the water as well because in
13 this case, I have to tell you, having gone through the last
14 experience that I did with the Sutter case, where I can only
15 describe my reactions on the cumulative impact analysis as
16 gentle and benign, and they won't be this time.

17 I expect a rigorous, comprehensive analysis, and if
18 it's not there, then I'm prepared to tell the presiding
19 member I will forego my vote and push the timing back.

20 Can you meet that -- can you meet those criteria?
21 Are the mechanics there available to do it in terms of
22 monitoring stations? Will I find this to be a seamless,
23 credible analysis, given the time?

24 MR. RATLIFF: That would be a tall order to fill,
25 certainly, to assure you in advance that you will be
26 satisfied.

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1 COMMISSIONER MOORE: I misspoke on that. You
2 obviously are not -- Mr. Ratliff, you are not responsible
3 for that. That's my responsibility.

4 MR. RATLIFF: I can tell you that -- whenever we talk
5 about air quality, it's a little bit confusing when we talk
6 about cumulative impact analysis because, really, air
7 quality, by its very nature, is a cumulative impact
8 analysis.

9 COMMISSIONER MOORE: You have two other projects to
10 follow this?

11 MR. RATLIFF: We have what we call the cumulative
12 impact analysis, which I would describe as the local
13 cumulative, which is a description of local impacts that
14 result from other closely related projects. And then we
15 have what I would call the more global or regional
16 cumulative analysis, which is your typical air quality
17 analysis, which is the regulated emissions.

18 Both of -- well, I should say -- let me back up. The
19 cumulative local air quality analysis, which I think you are
20 referring to, has been drafted. Its not been released.
21 But, you know, we expect to, in fact, probably release it in
22 the near future so the public can begin to review it and
23 identify any shortcomings, if there are any.

24 COMMISSIONER MOORE: And you are confident that given
25 the testimony we've heard about the monitoring stations,
26 that the source data is adequate to make an informed --

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1 MR. RATLIFF: I'm confused about that because I don't
2 know what you are referring to.

3 HEARING OFFICER GEFTER: I believe we're talking
4 about at the prehearing conference some of the public
5 comments that were made about the location of the monitoring
6 devices.

7 MS. WHITE: Agreed. Staff is looking into the data
8 related to the monitoring stations that is available. We
9 are utilizing, as we have described previously, the most
10 reasonable data available to include in our staff analysis
11 on air quality.

12 We have also described that our cumulative impacts
13 analysis as originally envisioned would address the
14 incremental increase in production at both the Pittsburg and
15 Contra Costa Power Plants, as well as the Delta Energy
16 Center and the Pittsburg District Energy Facility.

17 Since that time we have received comments from the
18 city of Antioch and from the CAP-IT organization. Staff is
19 working to address those comments and to consider looking at
20 additional analysis.

21 At this time we are getting additional data related
22 to the emissions of other sources in the Pittsburg/Antioch
23 area to address primarily Antioch's concerns, but we are
24 confident we can do that, presenting to the committee a
25 credible and solid cumulative analysis.

26 In terms of water, what we are doing is looking at

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1 the information provided by Delta Diablo Sanitation District
2 in their studies for their NPDS permit, which they are
3 developing the application for, as well as looking at Delta
4 Energy's NPDS permit, which was submitted to the committee
5 last week analyzing that data in addition to the information
6 provided by the Pittsburg District Energy Facility in
7 providing a cumulative analysis that will respond to both
8 questions posed to staff in its workshops and as a result of
9 its staff assessment related to impacts on aquatic life --
10 dispersions, concerns of the city of Antioch about their
11 intake, and trying to address all those things.

12 COMMISSIONER MOORE: I can only imagine the
13 consternation of the applicant if they came through this
14 process and found out that in the end the model that was
15 used to analyze local or regional air quality impacts was
16 flawed because of the identification points -- the
17 monitoring stations were inaccurately placed in order to
18 facilitate a real solid believable analysis, so I'll look
19 forward to your cumulative impacts.

20 MR. THOMPSON: Commissioner Moore, we would hope that
21 the protocol we ran through the district and EPA in regard
22 to the monitoring stations, at least it's given us comfort
23 today. I believe that we chose the monitoring stations
24 closest to those we thought was appropriate.

25 COMMISSIONER MOORE: I hope you are right.

26 MR. PITTARD: I'd like to ask a follow-up question.

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1 One thing that might help, since we are talking about
2 schedule, is to explain the relationship between this
3 cumulative local air quality impacts analysis and the FDOC.
4 Do they connect in any way? Since this is still in progress
5 by staff when it's complete, does it affect the DOC, in any
6 way?

7 MR. RATLIFF: I don't believe they do. The
8 cumulative local -- I'm not sure. When I say I don't
9 believe they do, I may be oversimplifying, but the normal
10 air quality analysis would look at the -- would basically be
11 concerned with the emission limitations and the required
12 offsets and violations of air quality standards in a general
13 way.

14 The local analysis will look at the juxtaposition of
15 the new projects in the community, looking at existing PG&E
16 facility, the PDF project, and the Delta project, in
17 conjunction try to determine if those three projects,
18 because of their juxtaposition, would have any kind of
19 localized public health impact or violation because of them
20 being as close as they are together.

21 MR. PITTARD: If the staff analysis concluded that it
22 did violate a standard, would the district then need to
23 change its determination of compliance? How would that
24 affect the districts?

25 MR. NISHIMURA: I would have to consult with our
26 planning department who actually did the modeling. I'm not

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1 the expert on that.

2 MR. RATLIFF: My impression is the district looks at
3 a different set of requirements where we are looking at this
4 is a CEQA requirement. We're trying to determine if there
5 is some heightened effect caused by past, present, and
6 related projects that would be overlooked simply by looking
7 at the projects separately.

8 MR. PITTARD: In response to the committee's main
9 concern in this scheduling conference portion, you don't
10 believe, then, that the staff's analysis would, in any way,
11 necessarily affect the timing of the FDOC?

12 MR. RATLIFF: No, we don't.

13 MR. PITTARD: Thank you.

14 HEARING OFFICER GEFTER: It does seem, though, that
15 there may be a real time crunch even to get to the point
16 where staff can file its testimony on air quality. And the
17 reason that we are -- we have this time crunch goes back to
18 the discussions that we had at several previous meetings
19 where the applicant has been concerned about going beyond
20 the twelve-month schedule.

21 The most obvious way to ensure that staff's testimony
22 on air quality and cumulative impacts on water would be
23 complete and defensible would be to give the parties more
24 time and that is still on the table.

25 MS. WHITE: If I might: The staff has been operating
26 under the committee's second revised schedule, and it has

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1 over the last month and a half, two months been endeavoring
2 to ensure its air quality testimony and its water quality
3 testimony is supplied to the committee first part of May.
4 This is because we have committed to satisfying the
5 committee's schedule as it has been posed.

6 Although the committee has not identified the exact
7 date they wish to have the testimony filed, we've been
8 operating under the assumption that it would be filed about
9 May 14th in order to accommodate a hearing on or about May
10 25th, May 27th to satisfy what was stated in the revised --
11 second revised committee schedule.

12 We recognize that that does not accommodate staff's
13 previous requests to issue its testimony post the FDOC, but
14 we have gone a long way in the last month or so working with
15 the district, the interested parties, primarily city of
16 Antioch and CAP-IT taking into consideration their input on
17 staff's assessment as well as the applicant in resolving
18 major issues we've identified, and at this point feel that,
19 in fact, we can submit a defensible testimony by May 14th
20 and be prepared to go to evidentiary hearings on or about
21 May 25th/27th.

22 Having said that, we would also piggyback that
23 certainly water cumulative could be submitted at the same
24 time and the portion related to cumulative analysis could be
25 considered part of the agenda for the evidentiary hearings
26 at the end of May.

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1 COMMISSIONER ROHY: Any other questions from the
2 panel up here?

3 What I'd like to do is ask for a -- call for a
4 ten-minute recess so that the committee can have a
5 conference and to allow applicant and staff, if necessary,
6 to think about some of the questions and we'll come back.

7 MS. POOLE: May I throw my hat in the ring before you
8 recess?

9 CURE is sympathetic to the applicant's plight here,
10 but we don't see how the parties can testify before we have
11 the final DOC. There's a dispute between, in particular,
12 EPA and the air district about what the appropriate emission
13 limits are here. Until that dispute is resolved, I don't
14 know how you can determine air quality impacts to testify
15 to.

16 There's also an incomplete offset package. I don't
17 know how you can testify regarding air quality mitigation
18 without that final offset package.

19 As I understand it, one of the things that EPA has
20 said to the air district is that they want the PDOC
21 recirculated once the offsets are banked. Now, that throws
22 another thirty days at least into the ring after what the --
23 after the Air District's timing calculation, so given that
24 EPA required the same thing in the High Desert case, I would
25 be surprised if they didn't stick to their guns here and
26 required the recirculation. It's also their only

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1 opportunity to comment on the offsets package.

2 I guess the last thing that I would point out is that
3 the word "omnistack" requires that the Commission find that
4 the air district has certified that there's a complete
5 offset package that's been identified and that will be
6 obtained before a license is issued. I don't know how the
7 Commission can reach that finding unless the air district
8 has issued its final DOC, so that's CURE's position.

9 COMMISSIONER ROHY: Questions of Ms. Poole?

10 HEARING OFFICER GEFTER: In other words, you are
11 proposing that the schedule be slipped for the amount of
12 time it takes for a final DOC to be issued?

13 MS. POOLE: Yes.

14 HEARING OFFICER GEFTER: And that would also slip the
15 time for the air quality testimony of staff?

16 MS. POOLE: Yes.

17 HEARING OFFICER GEFTER: And that goes -- that's a
18 question that, again, I'd like to raise with the applicant
19 regarding their willingness to slip the schedule to allow
20 testimony on air quality -- complete testimony on air
21 quality.

22 MR. THOMPSON: Can we have the ten minutes to --

23 COMMISSIONER ROHY: Absolutely. Any other comments
24 from parties or public before we take our recess?

25 MR. THOMPSON: Actually, I do have one comment, and
26 that's the code section that the representative of the

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1 unions refers to I actually think is instructive, not for
2 what she thought it was, but if you read it -- let me
3 Section 255D(2) of the Public Resources Code: "The
4 Commission shall not find that the proposed facility --
5 applicable air quality standards unless the applicant, air
6 pollution control district, or air quality management
7 district certifies that complete emission offsets of the
8 proposed facility have been identified and will be obtained
9 by the applicant prior to the Commission's licensing of the
10 project."

11 That to me says that prior to final decision, the air
12 pollution control officer has to tell the Commission that we
13 have all our offsets. That's someways down that road, so I
14 think that's our rather instructive portion of the public
15 resources code. Thank you.

16 MR. RATLIFF: Commissioner, if I could respond a
17 little bit to those comments?

18 I think the resolution of what I would call the
19 federal issue, whether it's two point five parts per million
20 on one-hour averaging or on three-hour averaging is not, in
21 any way, going to determine impact in terms of CEQA in terms
22 of whether there's a significant impact. Either way the
23 applicant, under either provision, is required to provide
24 his proportionate share of offsets, which under CEQA is
25 presumptively its mitigation for the amount which
26 contributes to air pollution.

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1 So in terms of the actual mechanics of CEQA, that
2 resolution, whether it's two point five three-hour averaging
3 or two point five one-hour averaging is not germane to the
4 issue of whether there's a significant air quality impact.
5 We're confident it's going to be resolved in the very near
6 future.

7 Secondly, as Allan pointed out, the air district can,
8 in fact, make their declaration for the committee at any
9 time prior to decision. And I would add as well that we
10 have, in the past, based our hearing testimony on permit
11 conditions that have been formulated to the actual issue
12 compliance, and I would just point to the Crocker cases as
13 the case that I have in mind where we did that.

14 COMMISSIONER ROHY: Excuse me?

15 MR. RATLIFF: I'm trying to answer in sort of a
16 shotgun fashion, I think, to comments that I just heard.

17 COMMISSIONER ROHY: I'd like to go back to your first
18 point though. It is my understanding, correct me if I have
19 a poor understanding of it, that there are two tests: One,
20 you must meet the emissions standards, whatever they are,
21 and second, even then you will emit something and those
22 emissions must be mitigated.

23 And let me take a ridiculous -- three parts per
24 million and some applicant, certainly not this one, decides
25 to put into a facility that ten parts per million, the EPA
26 could come back and sue somebody for that; is that correct?

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1 You still -- my point is you must meet the standard,
2 whatever it is, then you must mitigate to that standard. So
3 your statement, as I understood it, it doesn't matter
4 whether one-hour averaging or three-hour averaging you will
5 buy mitigation?

6 MR. RATLIFF: Yes.

7 COMMISSIONER ROHY: That's the way I understood your
8 statement. I don't believe that's necessarily correct, that
9 was my question.

10 Mr. Eller, did you have a comment on that?

11 MR. ELLER: I saw nods of agreement to your
12 statement.

13 MR. NEWHOUSE: If I may add something else? The
14 extent whether there is a dispute between EPA and the
15 district may also vary depending upon the final choices the
16 applicant takes, whether or not the district -- whether or
17 not the applicant, albeit a very difficult choice, might
18 choose to go to the one-hour averaging, which is what EPA is
19 obviously suggesting. I don't know that the district would
20 be concerned that an applicant is coming in at a level below
21 which it will require.

22 There may not be a dispute there after a number of
23 conversations, which we believe to occur between now and the
24 14th, which the staff will file and others would file
25 testimony, so some of these things, in our mind, in staff's
26 mind the great likelihood of being worked out in that time

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1 frame is not as great a hill to climb as we might expect.

2 COMMISSIONER ROHY: I don't know if you are aware
3 this committee made a commitment to give a twelve-month
4 decision to the applicant; however, having said that, we
5 still need time to write our decision, and we're not going
6 to give up our time to write a decision, if we go forward
7 with these hearings today, without an extension of time. We
8 will close the hearings in that date of May, which we've
9 been calling the 25th, 26th, 27th, we haven't set a
10 particular day, and that's all there will be.

11 And at that point we will make a decision and base
12 our decision on the evidence that is presented to that date,
13 and that's why we're having this lengthy discussion on
14 schedule right now. To give that twelve-month decision, we
15 must complete -- we extended a very large amount of our time
16 to go into May for these air hearings, and if the air part
17 of the hearings is now at risk or in question, then the
18 applicant obviously risks some negative portion of that
19 evidence or will risk a negative decision by this committee
20 based on lack of evidence for the air quality.

21 I think with that we'll take our recess and reconvene
22 at 3:15 promptly. And thank you.

23 (A brief recess was taken.)

24 COMMISSIONER ROHY: Ready to proceed, Commissioner?
25 Back on the record.

26 I'd like to ask applicant what may have been their

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1 decision during this period regarding the twelve-month
2 period and our concern about closing the record at the end
3 of the 27th, let's use that as a day.

4 MR. THOMPSON: We are appreciative of the committee's
5 indulgence. We recognize as the clock ticks down towards
6 day three sixty-five the time you have to write a decision
7 becomes less and less because of review periods at the end,
8 and we are mindful of that and appreciative of that.

9 We are also appreciative of staff and the work that
10 staff has been doing. We really know staff has been burning
11 the midnight oil, and we're buoyed by the fact that staff is
12 ready to go and mentioned the May 14th staff filing date.

13 When we received word about the offsets difficulty
14 that we received yesterday, after having time to pick
15 ourselves off the floor, we have embarked upon a program
16 which I think I mentioned to try and acquire the offsets or
17 at least options for offsets in the same quantity so that we
18 can have two parallel paths and we would hope to be able to,
19 if we are successful, offer up offsets that have already
20 been banked in an option form soon, if we can do that and
21 that would give some insulation to an earlier determination
22 that all the offsets for the project have been acquired.

23 And finally, we are confident after yesterday's
24 conference call that all issues between the district, EPA,
25 CARB, the staff, and ourselves will be resolved by the 14th
26 and we will be able to file in this document an agreed upon

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1 set of conditions of certification that we would anticipate
2 appearing in the final DOC.

3 For those reasons, we would beg the committee's
4 indulgence and would like to go forward. We will file
5 whatever we need to on the 14th and would accept whatever
6 hearing days at the end of the month for the cleanup issues
7 you deem appropriate.

8 COMMISSIONER ROHY: Thank you. I believe there's a
9 very recent input from the Bay Area Air District I would
10 like to hear.

11 May I ask the pronunciation of your name, Nishimura?

12 MR. NISHIMURA: Yes. Evidently I mentioned that the
13 letter was basically going to be signed either Thursday or
14 Friday, but I was informed that it was signed today, so
15 basically we just need a couple more days to get it into a
16 newspaper, and once it's in the newspaper, it's thirty days
17 from that date.

18 But in addition to that, our legal counsel sent a
19 letter on May 4 -- excuse me -- March 4th to Sam Wehn
20 telling him that basically we have settled the banked or
21 banking application with Owens Brockway and basically what
22 was left is we had to go out to public notice on that, but
23 evidently there was some miscommunication between our legal
24 staff and our permit services, which I'm part of.

25 And so I went to go talk to our legal staff this
26 morning about that, and they basically told me there was

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1 miscommunication on it and it should have been settled by
2 now. When I say "settled," it should have gone out to
3 public comment and officially Owens Brockway should have
4 received the banking certificate.

5 So on that part -- but in this banking certificate is
6 that they are going to receive approximately two hundred and
7 -- about two hundred sixteen tons of NOx emissions and a
8 part of those emissions Enron is planning to buy, and they
9 are planning to buy about a hundred and sixty tons of the
10 two hundred sixteen tons of emissions.

11 COMMISSIONER ROHY: And I understand -- excuse me --
12 is there a meeting scheduled with the EPA for next week?

13 MS. WHITE: That would be scheduled for next
14 Wednesday at 1:00 o'clock between the EPA, the air district,
15 and Commission staff. It is being sponsored by the
16 district.

17 COMMISSIONER ROHY: What issues will be discussed at
18 that meeting?

19 MS. WHITE: Resolution of EPA's comments to their
20 PDOC.

21 MR. NISHIMURA: I would like to add something to that
22 is that we see basically no difference between a one-hour
23 average versus three-hour average. The only difference
24 there is is that during operations you can see some -- you
25 may -- there may occur some excursions, and it may last for
26 a number of minutes, and that's what we're trying to prevent

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1 is we're trying to basically even those points out,
2 basically, by allowing them a three-hour average versus a
3 one-hour average.

4 COMMISSIONER ROHY: Is it not a problem: When you
5 start a gas turbine, that first hour has high emissions
6 because of startup?

7 MR. NISHIMURA: That is different. You are talking
8 about something different than startup from their normal
9 operations.

10 COMMISSIONER ROHY: So the one hour versus three
11 hours refers to?

12 MR. NISHIMURA: Their normal operations.

13 COMMISSIONER ROHY: Thank you. We have come up with
14 a proposed committee decision on what we'd like to do and
15 that is perhaps some good news and bad news.

16 We'd like to go ahead with the hearings today through
17 next Tuesday and hear the noncontroversial issues and those
18 that are scheduled. We would also make a decision that we
19 will go for our air -- help me say this correctly.

20 Would you say it so that I say it correctly for the
21 record here, Susan?

22 HEARING OFFICER GEFTER: The committee would like to
23 look for testimony from air from all the parties on May
24 14th, and we'd like to see information from the air district
25 at that time as well. And we would schedule a hearing on
26 air May 25th.

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1 Now, what the committee, in listening to the comments
2 made today and the committee's experience in the past, we
3 are a little bit skeptical about the ability of the district
4 to get out the final DOC and to get the offsets into final
5 form by May 25th, but we're willing to hear the testimony
6 that can be presented at that time.

7 However, committee is, at this point, planning to
8 slip the schedule beginning May 25th for as long as -- the
9 way we want to do it is that if the final DOC is not out by
10 May 25th, which is what we expected, we're going to slip the
11 schedule every day that the DOC is not out past the 25th.
12 We want to have a hearing on the final DOC prior to the
13 issuance of the final decision so that it could be -- this
14 is speculation -- that we may not even have a hearing on the
15 final DOC until July. And that would, of course, slip the
16 time for the issuance of the PMPD.

17 So that's what the committee wants to do, and we want
18 to leave the record open at the conclusions of hearings on
19 May 25th for receiving the final DOC.

20 MS. WHITE: Just a point of clarification, please.
21 When you say that you would want the FDOC prior to a
22 Commission decision --

23 HEARING OFFICER GEFTER: Prior to the issuance of the
24 PMPD.

25 MS. WHITE: That's fine.

26 MR. RATLIFF: For the district you want the

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1 declaration at the hearing serving that offsets will be
2 obtained should they anticipate they would make a
3 declaration at the hearing on air quality the schedule for
4 late May?

5 HEARING OFFICER GEFTER: Yes. But the committee is
6 uncomfortable going to a proposed decision prior to viewing
7 the FDOC because we want to be sure it is consistent with
8 the decisions staff will be including in its testimony, so
9 at that point that's the way the schedule is going to be
10 followed.

11 MR. RATLIFF: Would the committee be interested in
12 considering whether it would -- assuming the conditions in
13 the final DOC were similar to those that had been outlined
14 earlier, would the committee consider taking official notice
15 of the final DOC subsequent to the air quality hearing if it
16 comes out later?

17 HEARING OFFICER GEFTER: The --

18 COMMISSIONER MOORE: I'm not sure I understand what
19 that means.

20 MR. RATLIFF: Well, the agency may take official
21 notice in the same manner that a court takes judicial notice
22 of certain kinds of instruments and documents which are
23 common knowledge or of which are critical concern to the
24 agency's decision making.

25 Here you are going to be receiving the document, but
26 you will receiving it late. You can receive it into

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1 evidence by what's called official notice rather than having
2 a hearing on it, but you would want to do that if the
3 conditions were the same as those that had been contemplated
4 --

5 HEARING OFFICER GEFTER: Yes, that was considered,
6 and the committee would prefer to conduct a hearing because
7 the final DOC doesn't speak to us. Only the parties speak
8 to us, so the parties would have to put evidence into the
9 record to indicate to us whether the conditions are
10 consistent or not.

11 In other words, we need to have a hearing. We need
12 to hear from the parties. It could take five minutes or it
13 could take three days, but we need to have a hearing on the
14 final DOC.

15 COMMISSIONER ROHY: The attempt here is to do as much
16 as we can as early as we can so we can write our decision,
17 and hopefully if things go quickly with the air district, we
18 can be as close to being on schedule as possible, so we're
19 looking at the air district.

20 MS. WHITE: Just a request: That the committee
21 consider having the air quality hearing in the evening in
22 Pittsburg because of the nature of concerns for the local
23 agencies and other parties in the proceeding.

24 HEARING OFFICER GEFTER: Now, the hearing that we
25 would be scheduling on May 25th on air quality would also
26 include the testimony on the cumulative impacts on water

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1 quality that the city of Antioch is concerned with.

2 MS. WHITE: Thank you for confirming that.

3 HEARING OFFICER GEFTER: And also the testimony on
4 public health, to the extent that it is impacted by the
5 testimony on air should also be included in that on that
6 evening --

7 MS. WHITE: Indeed it will be.

8 HEARING OFFICER GEFTER: -- on May 25th. And a
9 notice will be going out with respect to the schedule, and
10 again to clarify, we will be conducting a hearing on air on
11 May 25th. We do not believe a final DOC will be issued at
12 that point.

13 What we're going to do is we're going to leave the
14 record open to accept a final DOC. It may take six weeks
15 from that date. We don't know. And we will have a hearing
16 on the final DOC before we close the record and issue a
17 PMPD.

18 COMMISSIONER ROHY: Allan?

19 MR. THOMPSON: We appreciate your going forward and
20 hearing our testimony so that the preparation of the PMPD
21 can start. And we hear you regarding the slippage for every
22 day after May 25, and in many ways it puts the burden on the
23 district and on ourselves. I think if we can come up with
24 some alternative offsets we may be able to speed that along.

25 We would hope that the district would be able to
26 issue its FDOC very quickly, and I think that it would help

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1 if we come to an agreement on all of the conditions of
2 certification so again, the burden is upon us. And if this
3 results in a schedule delay, the program that you have
4 outlined here results in a schedule delay, we'll take that.

5 COMMISSIONER ROHY: Thank you.

6 HEARING OFFICER GEFTER: All right.

7 COMMISSIONER ROHY: Like to have any comments from
8 CURE.

9 Ms. Poole, do you have any comments to the committee
10 decision you just heard?

11 MS. POOLE: I don't have any comments.

12 COMMISSIONER ROHY: Thank you.

13 HEARING OFFICER GEFTER: This concludes the
14 scheduling conference. I want to reiterate that discussions
15 that we held during this scheduling conference do not
16 constitute testimony, and at this point we will begin the
17 evidentiary hearings. I'm going to give you some background
18 on what we expect to take place during evidentiary hearings.

19 Evidentiary hearings are formal in nature. The
20 purpose of evidentiary hearings is to receive evidence and
21 to establish the factual record necessary to reach a
22 decision in this case. The applicant has the burden of
23 presenting sufficient substantial evidence to support the
24 findings and conclusions required for certification of the
25 proposed facility.

26 Prepared testimony was filed by the parties as

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1 follows -- and before I list the items of testimony that I
2 have in the record, I also have a tentative exhibit list
3 which I hadn't previously distributed to the parties, which
4 I'd like to do that at this point and go off the record for
5 a moment.

6 (Pause in proceeding.)

7 HEARING OFFICER GEFTER: Back on the record. I
8 wanted to indicate for the record the testimony that was
9 filed by the parties.

10 The first item is staff's assessment, which is dated
11 March 9th, I believe, and the supplemental testimony dated
12 April 12th. Also we've received applicant's April 12th and
13 April 19th filings and an updated witness list, which was
14 filed April 26th. We received CURE's April 19th's
15 testimony, city of Antioch filed testimony on April 19th,
16 and also the ISO filed testimony on April 9th, which would
17 be sponsored by our staff.

18 The order of testimony that will be taken today would
19 follow this listing: First the applicant, then the staff,
20 then CURE, then city of Antioch, CAP-IT, then Delta. We
21 would follow this list on each subject. Then we will
22 address the topics and the sequence contained in the hearing
23 order, and if necessary, we may continue a topic from one
24 day to a later date. I also handed out an agenda which
25 listed the topics for today.

26 I wanted to go over the tentative exhibit list. What

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1 I did here was I listed the exhibits that the applicant had
2 given us, and I also added on to here staff's exhibits and
3 other exhibits from CURE, testimony from the various
4 parties.

5 Right now people can take an opportunity to take a
6 look at this list and make any corrections, then we'll --
7 when I complete some of these remarks, we can talk about
8 this in more detail, any kinds of amendments people wish to
9 make.

10 During the course of the evidentiary hearing, the
11 process will be the following: Witnesses will testify under
12 oath or affirmation. During the hearings, a party
13 sponsoring a witness shall briefly establish the witness'
14 qualifications and have that witness orally summarize the
15 prepared testimony before requesting that the testimony be
16 moved into evidence. Relevant exhibits may be offered into
17 evidence at that time as well.

18 At the conclusion of the witness' direct testimony,
19 the committee will provide other parties an opportunity for
20 cross-examination, followed by redirect and
21 recross-examination as appropriate. As warranted, multiple
22 witnesses may testify as a panel.

23 I may end up repeating a lot of this procedural
24 discussion, especially when we're down in the city of
25 Pittsburgh and members of the public are present, so bear
26 with us if it sounds repetitive. It's for the purpose of

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1 explaining these evidentiary hearings to members of the
2 public. As we proceed, upon conclusion of each topic area,
3 we will invite members of the public to offer unsworn public
4 comment.

5 At this point are there any questions about the
6 process?

7 Let's look at the exhibit list at this point, if
8 people have had time to look at it. If there are any
9 glaring omissions or changes, let's talk about it now;
10 otherwise, we can make those changes as we go through the
11 testimony. Nobody has any comment at this point. Okay.

12 Before we begin, does any party wish to make changes
13 in their list of witnesses?

14 MR. THOMPSON: Yes, we have.

15 (Pause in proceeding.)

16 HEARING OFFICER GEFTER: Back on the record.

17 MR. THOMPSON: In the project description area in
18 addition to Mr. Wehn and Mr. Patch, I think it's probably
19 appropriate to put on Mr. Kolin, the city manager of
20 Pittsburg, and Mr. Parquet from Enron, who we filed
21 testimony on, and they would like -- I would like to put
22 them on to sponsor -- jointly sponsor Exhibit 10 and to give
23 a brief summation of their view of this project.

24 HEARING OFFICER GEFTER: Any objection, Mr. Ratliff?

25 MR. RATLIFF: No.

26 HEARING OFFICER GEFTER: Any other comments before we

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1 open testimony?

2 Our first topic will be Project Description.

3 MS. WHITE: Excuse me. We do have a substitute.

4 Connie Leni is unable to attended today because of family

5 emergencies, so Ron Wetherall is going to be presenting her

6 testimony. He's an electricity specialist with the

7 Commission.

8 HEARING OFFICER GEFTER: On what topic?

9 MS. WHITE: He will be providing testimony to needs

10 conformance, which is the second topic today.

11 HEARING OFFICER GEFTER: Any objection from the

12 applicant?

13 MR. THOMPSON: None.

14 HEARING OFFICER GEFTER: All right. We will begin

15 with the applicant. Witnesses will be sworn by the court

16 reporter, and our first topic is project description.

17 MR. THOMPSON: Applicant would like to call Mr. Jeff

18 Kolin, please.

19 (Pause in proceeding.)

20 (Witness sworn.)

21 BY MR. THOMPSON:

22 Q. Please state your name for the record.

23 A. Yes. My name is Jeff Kolin. I'm the city manager

24 for the city of Pittsburg, California. My address is 2020

25 Railroad Avenue, Pittsburg, California 94565.

26 Q. And you are the same Mr. Jeffrey Kolin that submitted

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1 prepared testimony in this proceeding that is now contained
2 in Exhibit 30; is that correct?

3 A. That's correct.

4 Q. Would you please -- and are you the same Jeff Kolin
5 cosponsoring Exhibit 10 listed on the exhibit list?

6 A. Yes, I am.

7 Q. Would you please give a brief description of how
8 Exhibit 10 came into being?

9 A. Sure. I think it started when the city first became
10 interested in the energy area when one of our local
11 businesses, PRAXAIR, requested our assistance in lowering
12 their energy rates. While ultimately we were unsuccessful
13 in that effort, it was our city's introduction into the
14 energy area. And it convinced us that we could really
15 create a tool that would help our citizens and our city go
16 into the twenty-first century.

17 Following that experience, we became a partner with
18 Enova, which is now Semptra, in the acquisition of electric
19 and natural gas distribution systems on Mare Island, which
20 was a U.S. Navy facility which was closing located in the
21 San Francisco Bay Area.

22 The city developed its own municipal utility, the
23 Pittsburg Power Company, at that time for that acquisition
24 on Mare Island, and we have been operating that facility
25 since April of 1997 with both natural gas and electrical
26 distribution facilities.

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1 Later that year Enron responded with an effort --
2 with a response or an RFP to the city when we went to bid
3 for an opportunity for development of energy-related
4 development within the city. That was for both the
5 Pittsburgh Power Company area within the city and adjacent
6 areas in the service area that we designated.

7 We signed an agreement with Enron that calls for the
8 city to receive sixty percent of the revenues or actually
9 profits from projects from any energy opportunities which
10 are described in the alliance agreement that we've submitted
11 as an exhibit today.

12 Money made from the Pittsburgh District Energy
13 Facility will help the city pay for a number of needed
14 infrastructure improvements in the future, such as new and
15 improved roads and park facilities. We worked very closely
16 with Enron to make sure that the Pittsburgh District Energy
17 Facility is consistent with city goals and objectives for
18 new industrial development in our community, and we see it
19 as a wonderful development economic development for us.

20 Q. What does the city hope to gain specifically with
21 this project, the Pittsburgh District Energy Facility?

22 A. Specifically with this project, as I mentioned, any
23 profits from the district energy facility will be split
24 sixty/forty, sixty percent coming to the city, forty percent
25 to Enron. But in addition to that, it will help ensure that
26 one of our most important local industries, USS/POSCO, a

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1 steel facility in the community, will be able to continue to
2 compete in the international market through a long-term
3 agreement with the plant for lower electrical energy costs
4 and steam.

5 We also believe that there will be additional
6 opportunities for the city to work with local industries.
7 We don't know exactly what those are today, but we think
8 having those attractive rates and available steam energy
9 will help us compete in our region to attract new business,
10 new industry into the community.

11 Finally, I think our experience with Enron is that
12 they are a good corporate citizen. This specific project
13 will result in three hundred union construction jobs when
14 the plant is under construction itself and twenty permanent
15 union operational jobs when the plant is in operation and
16 functioning for many years to come.

17 Last but not least I think it will result in
18 significant tax revenues to our community through the
19 property tax process.

20 Q. Mr. Kolin, is the city satisfied with the design of
21 the plant?

22 A. Yes, we are. We've found Enron to be very responsive
23 to community input and has really worked as a partner with
24 us in that process. They've demonstrated, really, a true
25 commitment to working with our community to improve the
26 energy project.

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1 Early in the project development, Enron responded
2 quickly to community concerns about visual impacts and air
3 quality and moved to reconfigure the plant so the stacks
4 from the turbines were further away from homes.

5 More recently they again listened to the community,
6 again hearing concerns about visual impacts with the
7 transmission facilities, and in that case and the transition
8 structures, they worked very closely with our city staff,
9 with the Calpine and Bechtel projects, and the community to
10 relocate those transition structures to less sensitive areas
11 so they weren't as visible. They redesigned the height of
12 some of the transmission towers and were able to reduce
13 those heights thus lessening the visual impacts.

14 That really, I think, has been an ongoing process
15 where they really have lived by public participation,
16 they've created a project advisory committee for the
17 project, which meets on a regular basis to given put into
18 the design of things like the truck route, the sound wall,
19 the transmission facilities, etcetera.

20 I've recently gone out and met with a number of
21 neighbors in the area surrounding the plant and asked their
22 opinion of the project and found them to be, I think,
23 generally approving and positive about the project. They've
24 been impressed with Enron's commitment to making community
25 improvements, particularly the landscaping and park
26 improvements along Santa Fe as part of the truck route and

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1 their commitments to ongoing corporate citizenship in the
2 community.

3 Q. Last thing, Mr. Kolin, does the truck bypass route
4 and sound wall have the support of the city of Pittsburg?

5 A. Yes, it does. The city has really been searching, I
6 think, for a solution to downtown traffic impacts where we
7 now have trucks going through the downtown area of our
8 community.

9 And in the early 1990s we identified a number of
10 alternative routes and did environmental studies on those
11 and really have not been able to bring that project to
12 conclusion because we've been hampered by the fact that we
13 haven't had the kind of anchor tenant like the Pittsburg
14 District Energy Facility to help support the financing
15 structure for construction of that bypass road.

16 The city is very supportive of the efforts of Enron
17 and the district energy facility to help finance the project
18 and really appreciate their efforts and commitment to finish
19 the road prior to operating the plant.

20 MR. THOMPSON: Thank you. Mr. Kolin is tendered for
21 cross-examination.

22 HEARING OFFICER GEFTER: Staff, any questions?

23 MR. RATLIFF: Yes.

24 BY MR. RATLIFF:

25 Q. Hello, Mr. Kolin. I wanted to ask you a little more
26 about the truck bypass route.

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1 Did the city prepare an EIR for that route?

2 A. Yes, we did.

3 Q. And certified it as well?

4 A. I believe we did.

5 Q. In that certified EIR there are -- is typically,
6 true, a consideration of alternate routes; is that correct?

7 A. That's correct.

8 MR. RATLIFF: Thank you.

9 HEARING OFFICER GEFTER: CURE have any questions?

10 MS. POOLE: No.

11 HEARING OFFICER GEFTER: Any redirect?

12 MR. THOMPSON: No.

13 BY HEARING OFFICER GEFTER.

14 Q. I have a question. And I may have missed your
15 testimony regarding profit sharing under the alliance of the
16 development agreement, Exhibit 10, what is the portion?

17 A. The portion under the alliance agreement between
18 Enron and the city of Pittsburg calls for sixty percent of
19 the profits from the eligible projects to be returned to the
20 city and forty percent of the profits to go to Enron.

21 Q. Does that include part of the cogeneration profits or
22 just the profits that are sold on the market?

23 A. I think we're still in discussions as to what exactly
24 "profits" mean. I think the most likely scenario is that
25 that will be defined during the project financing process,
26 and we will have a clearer picture as to what the actual

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1 meaning of "profits" is at that time.

2 Q. Is there some arrangement with Enron or the city to
3 improve parks as some sort of compromise with some of the
4 citizens who are concerned about the truck bypass route?

5 A. Yes, there is. And perhaps I can provide some more
6 detail to that and clarify the picture. It's very clear and
7 has been for some time that Enron is committed to relocating
8 and rebuilding a ball field structure on the current park
9 site that will be impacted by the truck route. And that
10 relocation and reconstruction will include lighting for the
11 facility.

12 They've also committed to, as part of the truck
13 route, to construct a pedestrian overcrossing that will
14 really provide the first direct pedestrian access to the
15 park site. That is not there now, so they are going, I
16 think, a step beyond and being willing to create that access
17 with the project.

18 Additionally, they have indicated that as part of the
19 truck route along Santa Fe Street, they will construct a
20 landscaped -- you can call it a buffer area or a linear park
21 strip that will include trees, shrubs, turf, and a pathway
22 through it, perhaps some picnic benches and passive
23 recreation facilities.

24 They've also indicated that they will cooperate with
25 the city and Calpine/Bechtel in designing and helping to
26 site and construct a linear parkway along the 8th Street

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1 right-of-way where both projects have indicated they propose
2 to underground utilities in that area.

3 And finally we believe that the project, the
4 Pittsburgh District Energy Facility, will have enough profits
5 to finance the -- we call it, I guess, the ultimate plan for
6 Central Park, which, I think, has been the subject of some
7 of the comments from residents is they would really like to
8 see that built and have a commitment to see that built, and
9 we will be talking to our city council to share those
10 numbers with them and see if they wish to prioritize the
11 expenditure of those funds for construction of the park over
12 a road improvement or some other infrastructure improvement.

13 HEARING OFFICER GEFTER: Okay. Thank you.

14 Commissioner?

15 BY COMMISSIONER ROHY:

16 Q. Sir, are you aware of any laws, ordinances,
17 regulations in your community that are in conflict with this
18 project or vice versa, that the project is in conflict with
19 any laws, ordinances, or regulations?

20 A. There is one requirement that the project will need
21 to come to the city for and that is heighth variance. We
22 have met numerous times with the staff to discuss the
23 process and believe that will be incorporated in the
24 Commission's proceedings following the issuance of the
25 presiding member's determination or report.

26 COMMISSIONER ROHY: Thank you.

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1 agreement that is now designated as Exhibit 10?

2 A. I guess I'll respond to that. I know in these
3 hearings we are referred to by the title "applicant," but I
4 guess I'd like to refer to myself and Enron by the title of
5 "developer."

6 And in the development of a project like this,
7 especially in the location that we were going to put the
8 project, you need to have the city and the citizens have a
9 stake in the success of the project. That was our motives
10 at the beginning and that remains our motives right now.

11 And when we responded to the RFP that was put out by
12 the city, there were a lot of different aspects of it in
13 addition to a power plant. A lot of different things that
14 the city could do that, frankly, Enron could not do. As
15 Mr. Kolin indicated, the city is a municipal utility. That
16 allows, in a deregulated environment, for a company like
17 Enron with money resources to work with Pittsburgh Power
18 Company to develop some of these projects they have in mind,
19 and that we still intend to develop, in ways that we
20 couldn't do by ourselves. That's valuable to us.

21 In addition, we come to a project like this, which is
22 a significant investment, and perhaps this is something that
23 we could do by ourselves if we chose, but you have to take a
24 look at where are we doing this project? We are doing it in
25 an area that has a number of other power plants. We're also
26 doing it in an area, the Bay Area, that has a critical need

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1 for power plants.

2 And we decided to give the city a positive stake in
3 it, and I guess the old saying goes we'd rather have forty
4 percent of something than a hundred percent of nothing.
5 That was our conclusion. We still think is a good deal.

6 A little bit broader into that, the perspectives of
7 Mr. Kolin indicated some of the things that we have done to
8 respond to the community. We break up a development process
9 into, let's say, agreements with the city as opposed to
10 agreements with the citizens. It was an agreement with the
11 city to enter into this agreement. It was an agreement with
12 the citizens to turn our plant around. It was an agreement
13 with the citizens to change the noise requirements, reduce
14 the stack height, make the Central Park additions that we
15 have now agreed to with the city, to put in a power plant
16 advisory committee, put in an office in the city.

17 Those are not, as you must be aware, the citizens
18 find this CEC process a very daunting process. I see the
19 staff and the Commission bending over backwards to try to
20 help them, but they are just folks putting on their pants in
21 the morning and going to work. And if we don't get out and
22 actually solicit overtly the input of the citizens as
23 opposed to the city, we're in for problems.

24 Our whole intention, getting back to the original
25 question, of putting together this agreement. Technically
26 we have a sixty/forty split, but the compact is not just

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1 with the city, it's with the citizens, and that's what we
2 are intending to do on both sides of this deal.

3 Q. Thank you. One point of clarification: You
4 mentioned the Bay Area's critical need for energy.

5 Do you have a position on the ISO board?

6 A. Yes. I'm on the board of governors of the ISO.

7 Q. Thank you. Would you briefly tell us how Enron
8 finances a project such as this?

9 A. That's a complicated question. I'll try to reduce it
10 to a simple statement so we're not here a long time.

11 There's three processes that we're undertaking right
12 now to support this project that started when we got formal
13 approval from management internal to Enron I think it was
14 September of '97. Three processes: One, the preparation of
15 this permit application. I believe people more familiar
16 with that application process than I am here, a very
17 rigorous process.

18 Second is the preparation of the numerous contracts
19 and agreements that need to be put in place so that the
20 banks and the equity participants that want to invest in a
21 project like this will agree to put their money in to the
22 point, I think, the visible documents that you folks see are
23 the permits that you look at, probably aware that there must
24 be a land agreement, special facilities agreement that we're
25 looking at with PG&E. But I will tell you there are over
26 two hundred agreements, contracts, permits, easements,

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1 leases, all of those documents all have to be put together.
2 And our decision was that the critical path item was the
3 July 28th date originally scheduled by this Commission.

4 So while you folks are considering your process and
5 doing your good work, we in parallel are putting together
6 these two hundred agreements or so.

7 I will tell you that as of this date we have spent or
8 committed nearly a hundred million dollars on this project,
9 and that primarily has to do with the two G.E. gas turbines.
10 We have now committed to a steam turbine as well.

11 We have purchased offsets, notwithstanding some
12 issues associated with the offsets, and we have spent
13 considerable time, effort, and other resources to make up
14 the balance of the figure I have outlined. This is not an
15 inexpensive process.

16 So we get now to the third item, and that is the
17 financing of it. The old euphemism in the project financing
18 area: When the stack of documents gets high enough and
19 heavy enough then we can finance it. We're getting close to
20 that point. It's now just a few months until July 28th, and
21 we are right now in the middle of looking at equity for the
22 project.

23 As you may know, Enron is a utility affiliate because
24 we own Portland General Electric and because this project is
25 structured as a QF. We have to, by regulation, sell down at
26 least fifty percent of our equity, so we are in the process

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1 of soliciting equity investors for this project right now,
2 and they are beginning to look at this process that we're
3 underway right now. They are beginning to look at the
4 documents we have assembled, and everything is coming to
5 that date.

6 And I do understand the considerations that you made
7 earlier this afternoon on the schedule, and I know that it
8 is troublesome for all of us to consider a delay, maybe it's
9 as troublesome for you as for us, but those three processes
10 are at least schedule to come to fruition at the same time.

11 And I guess I would ask -- first of all, I would say
12 on behalf of Enron, I really appreciate the work that staff
13 has done to keep us on schedule. I appreciate the
14 Commission's considerations today on trying to keep this on
15 schedule. And I think that all of us need to, I guess, pay
16 attention to the citizens out on the street that put their
17 pants on one leg at a time. I want to make sure that we
18 keep paying attention to them and not not pay attention to
19 them because we're concerned about schedule issues, so
20 that's the --

21 Q. Thank you very much, Mr. Parquet. And finally you
22 are cosponsoring Exhibit 10; is that correct?

23 A. Yes.

24 MR. THOMPSON: Mr. Parquet is tendered for
25 cross-examination. Pardon me.

26 Q. Did you have something else to add, Mr. Parquet?

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1 A. Yes. I would like to add that one other thing is the
2 -- one of the other schedule aspects of this I forgot to
3 mention is that with a close of financing based on the
4 receipt of the permit on or about the date we've been
5 talking about, we are now in final stages of negotiation
6 with our construction contractor to construct the project.
7 His commercial operation date is in approximately June of
8 the year two thousand and one.

9 As you may be aware, last summer there were some
10 power interruptions for some of the large industrial
11 customers to the point the Bay Area, by the ISO's own
12 reports, is in critical need for more power. And one of the
13 things that has set our schedule from the back end going
14 forward and some of the things that we are doing to incent
15 our contractors to make sure they perform is to get this
16 power plant online by the summer period of the year two
17 thousand and one.

18 To give you a figure, looking at the ISO reports, the
19 Bay Area needs about twenty-five hundred megawatts of power
20 today that under various N minus one, N minus two
21 considerations of reliability, under the WSCC rules that
22 they are short. Obviously those contingencies, nobody knows
23 whether they are going to happen, but the Bay Area is in
24 critical need of power, and we're trying to meet those
25 dates.

26 We're kind of helping everybody by seeing if we can

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1 work harder, longer, and we will do what we can to keep that
2 schedule as well.

3 Q. Anything else?

4 A. No.

5 MR. THOMPSON: Mr. Parquet is tendered for
6 cross-examination.

7 MR. RATLIFF: No questions.

8 HEARING OFFICER GEFTER: Does CURE have any
9 questions?

10 MS. POOLE: No.

11 HEARING OFFICER GEFTER: Committee? Let's go off the
12 record.

13 (Discussion off the record.)

14 HEARING OFFICER GEFTER: Back on the record. We're
15 going to interrupt the testimony on project description to
16 accommodate our witnesses who have to leave shortly. We'll
17 move on to Alternatives, then we'll return to project
18 description after we complete Alternatives testimony.

19 Is the applicant ready on Alternatives?

20 MR. THOMPSON: I am. I'll call as a witness Sam
21 Wehn. Raise your hand to be sworn.

22 (Witness sworn.)

23 BY MR. THOMPSON:

24 Q. Would you please state your name for the record.

25 A. It's Samuel Wehn.

26 Q. Are you the same Sam Wehn that submitted prepared

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1 testimony that's now contained in Exhibit 30 to this
2 proceeding?

3 A. Yes, I am.

4 Q. For the Alternatives section you are sponsoring those
5 sections of Exhibit 1 that deal with project alternatives,
6 except the section Exhibit 1 6.2, which is alternative
7 generation technologies; is that correct?

8 A. That's correct.

9 Q. Would you please briefly -- very briefly summarize
10 your testimony on Alternatives.

11 A. Yes. When we looked at this -- developing a project
12 in the Pittsburgh area, we looked at at two different sites.
13 One was by the Delta Diablo Sanitation District, which we
14 expected to be working with Dow Chemical, as well as a site
15 located on Dow Chemical property.

16 When we found we were not able to do a deal with Dow
17 Chemical, we then actually relocated our site to the current
18 proposed site that's in the application. And frankly,
19 because of the QF issues related to supplying steam to
20 Posco, we have, really, no other choice but to locate as
21 close as possible to the USS/POSCO property.

22 With respect to the linear routes of transmission
23 pipeline for gas, pipeline for water, we looked at a number
24 of routes. We made an effort to try to not impact the city
25 of Pittsburgh, in any way, shape, or form.

26 And what we found is that the best alternative for

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1 transmission was to go down 8th Street and go underground
2 for transmission to get to the Pittsburg substation. For
3 the gas it was to stay on the USS/POSCO property as long as
4 we can, then route it to the nearest PG&E terminal. And
5 with regard to the waterline, was really only two options:
6 Either the Pittsburg/Antioch Highway or go along the
7 USS/POSCO property, crossing Loveridge Road, and down onto
8 Dow Chemical. We chose the route of the Pittsburg/Antioch
9 Highway because of its ability for possibly reselling of
10 reclaimed water to other participants in the area.

11 Q. Mr. Wehn, does that complete your testimony?

12 A. Yes.

13 MR. THOMPSON: Mr. Wehn is tendered for
14 cross-examination on the issue of Alternatives.

15 HEARING OFFICER GEFTER: Staff?

16 MR. RATLIFF: No questions.

17 HEARING OFFICER GEFTER: CURE?

18 MS. POOLE: No.

19 HEARING OFFICER GEFTER: Okay. Does staff want to
20 present witnesses at this point?

21 MR. RATLIFF: Yes. The staff has two witnesses who
22 did the testimony on Alternatives, both the testimony and
23 the staff assessment, which is Exhibit 28 and the
24 supplemental testimony in Exhibit 29. Those witnesses are
25 Lorraine White, the project manager, and Eileen Allen.

26 HEARING OFFICER GEFTER: Will the witnesses be sworn

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1 , please.

2 (Witness sworn.)

3 BY MR. RATLIFF:

4 Q. Ms. Allen, Ms. White, did you prepare the portion of
5 the staff testimony entitled Project Alternatives that are
6 part of the staff assessment?

7 A. Yes, we did.

8 (Discussion off the record.)

9 BY MR. RATLIFF:

10 Q. Did you also prepare the staff supplemental
11 testimony?

12 A. MS. ALLEN: I did not prepare the supplemental
13 testimony. I worked with Lorraine to prepare the primary
14 testimony.

15 Q. And Ms. White, did you prepare the supplemental
16 testimony?

17 A. MS. WHITE: The supplemental testimony that was
18 provided offered only minor changes, yes.

19 Q. Is that testimony true and correct to the best of
20 your knowledge?

21 A. MS. ALLEN: I have a minor correction to the
22 testimony. This minor change would be on page 446 of the
23 testimony. I'm looking at the section that has a large
24 heading "Other Site Alternative Possibilities within
25 USS/POSCO Property." This is under the site description
26 heading, line two. The notation that says eighty acres in

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1 size should read one hundred and seventy.

2 Q. With that change, is your testimony true and correct
3 to the best of your recollection?

4 A. Yes.

5 Q. Can you summarize your testimony briefly?

6 A. The Energy Commission staff is required to examine
7 the feasibility of available site and facility alternatives
8 to the applicant's cogeneration project proposal which
9 substantially lessen the significant adverse impacts of the
10 proposal on the environment.

11 Lorraine White and I prepared this alternatives
12 analysis which identifies the applicant's basic objectives,
13 the potentially significant impacts of the project,
14 technology alternatives, and alternative sites that had the
15 potential for reducing or avoiding significant impacts.

16 With respect to alternative sites, we looked at three
17 in addition to the proposed sites. The alternatives sites
18 are the proposed the Air Liquide site, the PDF alternative
19 site that Mr. Wehn mentioned on the Dow Chemical property,
20 and the proposed Delta Energy Center site. All three
21 alternative sites are located in the city of Pittsburg in
22 eastern Contra Costa County.

23 We also analyzed the no-project alternative. This
24 alternative assumes that the project is not built and is
25 compared to the proposed project. We concluded that the
26 mitigation measures proposed by PDEF will reduce any impacts

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1 to less than significant levels. We believe that overall
2 the no-project alternative is not superior to the proposed
3 project.

4 After examining the three alternative sites and the
5 applicant's proposed site, staff found that using the
6 proposed site and its related linear facilities with
7 mitigation measures would result in the least environmental
8 impact. Since there are no unmitigated significant adverse
9 impacts, there are no issues in this area. Therefore, staff
10 is not proposing any alternative sites, related facility, or
11 technology options.

12 Q. Does that conclude your testimony?

13 A. Yes, it does.

14 MR. RATLIFF: The witnesses are available for
15 cross-examination.

16 HEARING OFFICER GEFTER: Applicant?

17 MR. THOMPSON: No questions.

18 HEARING OFFICER GEFTER: CURE?

19 MS. POOLE: No questions.

20 HEARING OFFICER GEFTER: Committee? I have one
21 question.

22 You indicated that the mitigation proposed by PDEF
23 that staff has no problems with the proposed project as in
24 comparison with the alternatives.

25 I wonder if that mitigation -- are you just making
26 that statement based on mitigations proposed by PDEF, or

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1 does that include mitigations proposed by staff?

2 MS. WHITE: It's both.

3 HEARING OFFICER GEFTER: So you two amend your

4 testimony to --

5 MS. WHITE: Yes. We'll clarify our testimony to

6 assure that.

7 HEARING OFFICER GEFTER: Any other questions? Okay.

8 That concludes -- does that conclude all the testimony on

9 Alternatives at this point? Okay.

10 There were some exhibits identified both by the

11 applicant and by staff on Alternatives.

12 Do you want to move those into evidence at this time?

13 MR. THOMPSON: I think our preference would be to

14 move all of Exhibit 1, our AFC, when our last witness goes

15 before you.

16 HEARING OFFICER GEFTER: All right. How about staff?

17 Is that the same request?

18 MR. RATLIFF: However you prefer to do it. We can

19 move it now and make it subject to challenge later, or do it

20 at the end, if you prefer.

21 HEARING OFFICER GEFTER: We can do it at the end,

22 that way all the testimony will be in. Thank you.

23 Off the record.

24 (Discussion off the record.)

25 (Witness sworn.)

26 HEARING OFFICER GEFTER: Back on the record. At this

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1 point we are going to allow another witness to testify out
2 of order because that person also has to leave, and so we're
3 going to take testimony on Power Plant Efficiency and Power
4 Plant Reliability, two topics, then we will return to
5 project description.

6 Now, the applicant would like to proceed on Power
7 Plant Efficiency.

8 MR. THOMPSON: Thank you. Applicant would like to
9 call Mr. Joe Patch be sworn.

10 (Witness sworn.)

11 BY MR. THOMPSON:

12 Q. Please state your name for the record.

13 A. My name is Joe Patch.

14 Q. Are you the same Joe Patch that submitted prepared
15 testimony now contained in Exhibit 30 to this proceeding?

16 A. Yes, I am.

17 Q. Today you are sponsoring both Power Plant Reliability
18 and Power Plant Efficiency; is that correct?

19 A. Yes.

20 Q. Do you have any corrections, additions, or changes to
21 make to that material?

22 A. No.

23 MR. THOMPSON: If it please the committee, I would
24 like to forego the usual questions about summation of
25 testimony for these two areas.

26 BY MR. THOMPSON:

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1 Q. Is there anything else, Mr. Patch, that you would
2 like to add?

3 A. No.

4 MR. THOMPSON: We would like to tender Mr. Patch for
5 cross-examination in the areas of efficiency and
6 reliability.

7 HEARING OFFICER GEFTER: We're going to take
8 efficiency first, and what exhibit is Mr. Patch sponsoring
9 with respect to efficiency?

10 BY MR. THOMPSON:

11 Q. Mr. Patch, are you sponsoring appendix M to Exhibit
12 1, which is the QF calculations?

13 A. Yes.

14 Q. And that is all? That is the sole exhibit for Power
15 Plant Efficiency? Say yes.

16 A. Yes.

17 MR. THOMPSON: Thank you.

18 HEARING OFFICER GEFTER: Any questions for Mr. Patch
19 from any of the parties?

20 MR. RATLIFF: No.

21 HEARING OFFICER GEFTER: From the committee?

22 Applicant will you proceed and have your --

23 MS. WHITE: You mean staff?

24 HEARING OFFICER GEFTER: Staff, I'm sorry.

25 MR. RATLIFF: Staff witness is Steve Baker.

26 (Witness sworn.)

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1 BY MR. RATLIFF:

2 Q. Mr. Baker, did you prepare the staff testimony

3 entitled Power Plant Efficiency?

4 A. Yes, I did.

5 Q. And you also prepared the testimony entitled Power

6 Plant Reliability?

7 A. Yes.

8 Q. Is that testimony true and correct to the best of

9 your knowledge and belief?

10 A. Yes, it is.

11 Q. Could you summarize it, briefly?

12 HEARING OFFICER GEFTER: Excuse me. Can we go one

13 topic at a time and have Mr. Baker --

14 MR. RATLIFF: Of course.

15 BY MR. RATLIFF:

16 Q. Shall we begin with efficiency?

17 A. The California Environmental Quality Act requires

18 identification of the project's significant adverse impacts

19 on energy resources, in this case, the natural gas fuel

20 supply.

21 Significant adverse impacts could occur: If the

22 project will create adverse effects on local or regional

23 energy supplies and resources; if the project establishes a

24 requirement for additional energy supply capacity; if the

25 project will result in the wasteful inefficiency and

26 unnecessary consumption of fuel or energy; or if the project

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1 does not comply with existing energy standards.

2 Further, by qualifying as a cogeneration power plant,
3 the project may gain exemption from the requirement to file
4 a Notice of Intention. To qualify for this exemption, the
5 project must meet certain standards of cogeneration energy
6 production.

7 Adverse Impacts on Energy Supplies and Resources:

8 The project's fuel supply will come from natural gas
9 purchased on the open market. This gas will be drawn from
10 supplies in California, Canada, and the Southwest. These
11 sources can supply far more gas than the project will
12 require, thus creating no adverse impacts on energy supplies
13 or resources.

14 Regarding the Requirement for Additional Energy
15 Supply Capacity: Fuel for the project will be supplied by
16 California's natural gas pipeline system. This system is so
17 large and well-developed there's no likelihood that the
18 project will require development of any new energy supply
19 facilities.

20 Wasteful and Inefficient Energy Consumption: The
21 project's energy consumption could be considered wasteful
22 and inefficient if an alternative source of electricity were
23 available that is significantly more fuel efficient. This
24 is not the case, as the Pittsburg project represents the
25 current state-of-the-art in electric generation efficiency.

26 The project will be composed of modern F-class

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1 combined cycle turbine generators producing electricity at
2 an efficiency of approximately by the-six point five
3 percent. This compares very well to a traditional utility
4 company boiler plant efficiency of only thirty-two percent
5 and compares well with other available generating equipment.

6 Compliance with Existing Energy Standards: The only
7 energy standard that applies to the Pittsburgh project is the
8 Cogeneration Definition expressed in Section 25134 of the
9 Warren-Alquist Act. In order to be exempted from the
10 requirement to file a Notice of Intention, the project must
11 meet two milestones:

12 First, at least five percent of the energy produced
13 by the project must be in the form of heat energy delivered
14 to the cogeneration host. This is referred to as the
15 "Operating Standard;" and the project's calculated
16 cogeneration efficiency must equal or exceed forty-two point
17 five percent. This is referred to as the "Efficiency
18 Standard."

19 Based on the applicant's calculations, staff believes
20 the project will be able to achieve these milestones.
21 Achievement will be monitored on an annual basis by means
22 established in staff's proposed Conditions of Certification
23 EFF-1.

24 In conclusion, the Pittsburgh project will represent
25 one of the most fuel efficient power plants feasible. It
26 will create no significant adverse impacts on energy

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1 resources and with the implementations of staff's proposed
2 Conditions of Certification, will comply with all applicable
3 energy codes and standards.

4 Q. Does that conclude your testimony?

5 A. Yes, it does.

6 MR. RATLIFF: Would you prefer that the witness
7 summarize his reliability testimony and make him available
8 for questioning?

9 HEARING OFFICER GEFTER: No. I'd like to end the
10 questions on efficiency first, then go to the next topic.

11 MR. RATLIFF: Then the witness is available.

12 HEARING OFFICER GEFTER: Any questions from the
13 applicant?

14 MR. THOMPSON: None, thank you.

15 HEARING OFFICER GEFTER: From any other party? No.
16 From the committee.

17 BY COMMISSIONER ROHY:

18 Q. Mr. Baker, you mentioned the efficiency of the
19 F-class machine is at fifty-six point five percent. I
20 assume that is the higher heating value?

21 A. No, sir. That's the lower heating value.

22 Q. Is that because of the addition of the cogeneration?

23 A. No, sir. It's customary for the gas turbine to
24 express in lower heating value.

25 Q. And thank you. And second, will there be auxillary
26 boilers associated with this project?

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1 COMMISSIONER ROHY: I suppose I should ask applicant.

2 COMMISSIONER MOORE: Is that a new addition, adding
3 the boiler on?

4 MR. THOMPSON: No.

5 COMMISSIONER ROHY: There are auxiliary boilers; is
6 that correct?

7 BY COMMISSIONER ROHY:

8 Q. If that's the case, Mr. Baker, have you considered
9 the energy efficiency of the auxillary boilers?

10 A. The efficiency -- you mean in the fifty-six point
11 five percent?

12 Q. Yes.

13 A. No, sir. That's just the electric generation
14 efficiency of the turbines.

15 Q. So none of the heat that's going into the Posco plant
16 is considered in your efficiency numbers?

17 A. No, sir. This is -- the purpose of that portion of
18 my testimony was to determine if the project would be likely
19 to use energy wastefully or inefficiency because there was
20 some more efficient alternative available. When we looked
21 at the other alternatives, there are none that are
22 noticeably or significantly more efficient.

23 Whether we measure the electric efficiency coming out
24 of the turbines or whether we measure the overall heat
25 efficiency of the project coming out of the machines, my
26 conclusion would be the same.

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1 Q. So your number is the lower heating value for
2 electric production only?

3 A. Yes, sir.

4 Q. Thank you.

5 BY HEARING OFFICER GEFTER:

6 Q. I have a question which this would have been based on
7 the project description, but since we've taken testimony out
8 of order, what the Application for Certification indicates
9 is that the applicant has either a one-on-one project
10 configuration or two-on-one project configuration, and I
11 wanted to know whether your testimony took both
12 configurations into account?

13 A. No. At the time I prepared the testimony, the
14 applicant already decided on the precise equipment. It will
15 be using the two-on-one General Electric configuration.

16 HEARING OFFICER GEFTER: Is that the case?

17 MR. PATCH: Yes.

18 HEARING OFFICER GEFTER: So the applicant is
19 prepared to tell us about the two-on-one project?

20 MR. PATCH: Yes, it does.

21 BY HEARING OFFICER GEFTER:

22 Q. The condition that the staff has added to their
23 efficiency testimony looks like a standard condition that
24 staff has generally used; is that correct?

25 A. Yes, it is.

26 Q. This is standard language?

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1 A. Yes.

2 Q. Is it applicable in this case?

3 A. Yes, it is.

4 HEARING OFFICER GEFTER: Any other questions from the

5 committee? All right. I think we're done with testimony on

6 Efficiency. We can move on to Reliability, and I will ask

7 the applicant to proceed on that topic.

8 BY MR. THOMPSON:

9 Q. Thank you very much. The applicant calls Mr. Joe

10 Patch, having previously been sworn.

11 Mr. Patch, are you the witness for Power Plant

12 Reliability?

13 A. Yes, I am.

14 Q. Your direct testimony is contained in Exhibit 30 to

15 this proceeding?

16 A. Yes, it is.

17 Q. Do you have any corrections, changes, additions to

18 that Power Plant Reliability material?

19 A. No, I do not.

20 Q. And your exhibit that you are sponsoring in this area

21 is Exhibit 1 1-3.9 Reliability; is that correct?

22 A. Yes.

23 MR. THOMPSON: Thank you very much. Mr. Patch is

24 tendered for cross-examination.

25 HEARING OFFICER GEFTER: Any questions of the witness

26 from staff?

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1 MR. RATLIFF: No questions.

2 HEARING OFFICER GEFTER: From any other party? No.

3 Okay.

4 Staff are you ready to proceed with your witness?

5 MR. RATLIFF: Mr. Baker has been sworn.

6 BY MR. RATLIFF:

7 Q. Mr. Baker, can you summarize your testimony on Power

8 Plant Reliability?

9 A. The Warren-Alquist Act requires that power plant

10 reliability be examined but specifies no criteria that must

11 be met. In order to identify any potential adverse impacts

12 on electric system reliability, staff examines the

13 application to determine whether the project will be built

14 to typical electric power industry norms of reliability. If

15 this is the case, we assume that no significant adverse

16 impacts will result.

17 The Elements of Reliability are equipment

18 availability, fuel and water availability, and resistance to

19 natural hazards.

20 Regarding Equipment Availability, this will be

21 ensured by use of industry standard quality assurance and

22 quality control programs during the design, procurement, and

23 construction of the project and by implementation of an

24 industry standard maintenance program. Adequate redundancy

25 of essential equipment will help ensure the plant achieves

26 its projected level of availability.

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1 Regarding Fuel and Water Availability, the natural
2 gas fuel will be supplied by a PG&E gas pipeline from vast
3 resources in California, Canada, and the Southwest. Staff
4 believes this is an adequately reliable supply. Water
5 supply is discussed in the portion of the Staff Assessment
6 entitled Soil and Water Resources, in which it was concluded
7 that an adequate supply of water is available.

8 On Resistance to Natural Hazards, neither earthquake
9 nor flooding are likely to present a significant hazard to
10 power plant reliability. No other natural hazards threaten
11 the project site.

12 In conclusion, the Pittsburgh project is likely to be
13 built to typical industry norms of reliability and will thus
14 produce no significant adverse impacts on electric system
15 reliability. No Conditions of Certification are required
16 for this subject area.

17 Q. Does that conclude your testimony?

18 A. Yes.

19 MR. RATLIFF: Mr. Baker is available for questions.

20 HEARING OFFICER GEFTER: Any cross-examination?

21 MR. THOMPSON: None from applicant.

22 HEARING OFFICER GEFTER: Questions from the
23 committee? I have a question.

24 BY HEARING OFFICER GEFTER:

25 Q. There's a question that I raised: In looking at your
26 testimony, you talk about PDEF does not express plans to

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1 participate in selling reliability-related power services
2 such as voltage support. However, in your testimony you
3 indicate that if the price were high enough, you believe
4 applicant or others would serve the need.

5 I was confused, again, because the applicant in its
6 AFC indicates it intends to sell power to the ISO. Again,
7 we haven't done the project description testimony, but that
8 was inconsistent with your statement, and could you explain
9 that?

10 A. In selling power to the ISO, the applicant will offer
11 energy for sale and they'll have a price. When their price
12 becomes the lowest one, the ISO will punch numbers into a
13 computer and the applicant will ramp up their machine and
14 deliver power to the grid. Their intention, as I understand
15 it, is to deliver base-load power: Turn it on full throttle
16 and let it run, spinning the wheel as fast as they can.

17 This is the typical scenario, and there's no special
18 requirement for this power plant to exhibit any unusual
19 level of reliability. When they are available they bid into
20 the system and the ISO, when they are the lowest bidder,
21 picks them and they generate.

22 It would be possible for them to bid to supply
23 reliability services, what we call power quality. They
24 could bid to supply voltage support, VAR support, frequency
25 control, spinning reserve, black start capability. These are
26 all special services that are being unbundled under the laws

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1 that created our deregulated industry.

2 The details of this market and pricing and delivery
3 of such services has not been finished by the ISO and the
4 power exchange, so it's very difficult or impossible right
5 now for a power plant owner to actually sell services like
6 these. They are being acquired by the ISO kind of on a
7 default basis until the market is set.

8 If a power plant were to come to us and say we want
9 to build a plant to supply these reliability services, then
10 staff would look at the possibility that perhaps the plan
11 should be built to higher standards of reliability so they
12 could be relied on to sell these services.

13 Q. That's my next question. If, indeed, the applicant
14 can sell power on the ISO market, being that they offer to
15 sell things such as voltage support or spinning reserve, for
16 example, staff has not proposed a condition on reliability
17 for that activity.

18 And I'm wondering if, in fact, it turns out that the
19 PDEF facility is selling on a regular basis to the ISO, what
20 sort of reliability condition would staff impose?

21 A. I think there's a misunderstanding here. They can
22 either sell power to the ISO by bid or they can write
23 bilateral contracts with energy and sell power directly, but
24 none of this is regarding special reliability services.
25 This is just energy. You send the electrons to the wire,
26 and someone else has to deal with problems of voltage

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1 support, frequency control, etcetera.

2 HEARING OFFICER GEFTER: Does applicant have any
3 comment on that issue?

4 MR. THOMPSON: I would like to, when the time comes,
5 to ask Mr. Wehn these questions.

6 HEARING OFFICER GEFTER: During the Project
7 Description?

8 MR. THOMPSON: Exactly.

9 BY HEARING OFFICER GEFTER:

10 Q. I also had a question on reliability of water supply.
11 Staff's testimony indicates that this should be no problem
12 with that and water from the city of Pittsburg is the backup
13 supply.

14 Is it your testimony that that is a reliable source
15 based on the water resources testimony or is this something
16 we should talk about during water resources testimony or is
17 that something that, in your testimony, you have identified
18 and analyzed?

19 A. I've relied on the water resources testimony for that
20 conclusion.

21 Q. We'll have to talk to the witness on water resources
22 regarding that issue?

23 A. I could point out, though, that from reading the
24 application, I don't believe it's intended that the potable
25 water would be used for any great length of time as a backup
26 water supply.

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1 Q. Then I have a question for the applicant on
2 reliability. Staff indicates that the applicant expects a
3 higher availability factor of ninety-two to ninety-eight
4 percent, which is higher than the industry standard of
5 ninety percent. And I don't really know where those numbers
6 come from or why the applicant is proposing a higher
7 availability, what basis that occurs.

8 A. MR. PATCH: The percent of availability of the plant
9 is based on what we would anticipate and have identified
10 through discussions with and information received primarily
11 from the turbine vendors. They are mandatory inspections of
12 the gas turbines, based on other plants that we have seen
13 and identified, excess of ninety percent of availability is
14 standard.

15 We've talked to sites up in New York, for example,
16 and they are well in excess of ninety percent for at least a
17 couple years that we were able to look at what they were
18 doing, which is consistent with the analysis that we had
19 based on what we understand would be routine maintenance we
20 could identify.

21 Q. So essentially we can say that the industry standard
22 of ninety percent is obsolete?

23 A. That sounds low.

24 MR. BAKER: May I add to this: The ninety percent
25 figure comes from statistics gathered from the North
26 American Electric Reliability Council, specifically combines

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1 cycle units of all sizes. This includes much older units
2 than the one to be built here, and it includes much smaller
3 units. It includes units that are probably used in more
4 demanding load cycles and such.

5 Therefore, the average ninety percent figure from
6 NAERC represents a lower figure than you would expect from
7 this newest, most reliable plant used on base load service.
8 It's not at all unexpected to see that the applicant would
9 hope for a higher availability factor than the industry
10 average.

11 HEARING OFFICER GEFTER: Thank you.

12 COMMISSIONER ROHY: I'd like to follow on that
13 question and switch over to reliability rather than
14 availability. And though I'm not sure exactly the
15 difference, I will ask whether reliability will be
16 compromised if, because of competitive markets, that your
17 facility must turn on/off at least once a day not be a base
18 load facility?

19 MR. PATCH: We do not believe that's the case. The
20 basis of the AFC is that we will have a stop permit for each
21 day.

22 COMMISSIONER ROHY: Thank you.

23 HEARING OFFICER GEFTER: Any other questions from the
24 committee?

25 We're finished with this witness, I suspect.

26 Any cross-examination from the applicant?

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1 MR. THOMPSON: None.

2 HEARING OFFICER GEFTER: Off the record.

3 (Discussion off the record.)

4 HEARING OFFICER GEFTER: We're going to be going back

5 to testimony on Project Description now, and we'll ask the

6 applicant to finish their direct testimony.

7 MR. THOMPSON: I'm sorry. I was talking. Let me

8 infer that you are asking me to go forward with Project

9 Description?

10 HEARING OFFICER GEFTER: Yes.

11 MR. THOMPSON: Applicant will call Sam Wehn.

12 HEARING OFFICER GEFTER: Mr. Wehn, you've been sworn

13 earlier today, so we'll just continue with your sworn

14 testimony.

15 THE WITNESS: Thank you.

16 BY MR. THOMPSON:

17 Q. Mr. Wehn, are you the same Sam Wehn that submitted

18 testimony contained in Exhibit 30 to this proceedings?

19 A. Yes, I am.

20 Q. And you are now discussing Project Description?

21 A. Yes.

22 Q. And in your position at Enron -- first of all, what

23 is your position at Enron with regard to this project and

24 the development of the project description?

25 A. Well, I'm responsible for the permitting side of it,

26 the engineering development, permitting evaluation of the

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1 environmental evaluation, and further would participate in
2 the financing and other business activities related to this
3 project.

4 Q. Do you have any corrections, additions, or deletions
5 to make to your material?

6 A. Yes, I do. My testimony originally talked about some
7 issues on air quality. I believe after our conference call
8 that we had with the district, the Bay Area QMD and the
9 California Energy Commission staff, I believe that we are --
10 have resolved the majority of those issues that I had
11 concerns and issues with in my testimony.

12 Q. Thank you. In a previous discussion, Mr. Wehn, the
13 committee asked a question regarding ancillary services.

14 Would you please briefly describe the intent of this
15 project and Enron to respond to state requirements seen
16 through the ISO.

17 A. Well, it is certainly our intent that, because,
18 number one, we do have a bilateral contract with one entity,
19 USS/POSCO, that they will not be buying all of the energy.
20 The balance will then be sold into the market, and the ISO
21 has a bidding process for selling into the marketplace
22 one-hour bids over a twenty-four-hour period.

23 We will be bidding into the market, and it is our
24 belief that because of the efficiency of this plant, that
25 we'll have an opportunity to operate more than we will not
26 operate. However, that doesn't say for the life of this

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1 project that that will, in fact, be the case.

2 We envision that as we move into the more competitive
3 market, i.e., other projects will come into being, that we
4 will become -- there will be enormous competition out there
5 and chances are we won't run and will have to shut down once
6 a day and operate on a startup/shutdown mode.

7 With regard to ancillary services, those services
8 aren't actually developed. The ISO is, in fact, trying to
9 develop a market for those services. We envision that to be
10 one of the elements that we would be interested in bidding
11 on is the ancillary services.

12 As I sit here today, it's difficult, since the market
13 is not there and established, to say exactly how we are
14 going to do that, but I think there is a definite intent for
15 us to participate in a competitive market in ancillary
16 services.

17 Q. Thank you. Do you have anything else to add,
18 Mr. Wehn?

19 A. No, I do not.

20 MR. THOMPSON: Mr. Wehn is tender for
21 cross-examination in the area of Project Description.

22 HEARING OFFICER GEFTER: Questions from staff.

23 BY MR. RATLIFF:

24 Q. Mr. Wehn, does the applicant still intend to turn the
25 8th Street corridor median into a park?

26 A. Yes. Once -- let me back up and say once we've

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1 worked out our construction/installation sequence with the
2 Delta Energy Project, which is what the city of Pittsburgh
3 has asked us to work with them, is such that we will only
4 excavate 8th Street one time. Then the plan is to
5 reconstruct 8th Street median into a park. Yet to be
6 determined as to what extent this will be a park area are
7 the shrubs, trees, etcetera, but we will participate in
8 that.

9 HEARING OFFICER GEFTER: Any other questions from the
10 parties? I have some questions.

11 BY HEARING OFFICER GEFTER:

12 Q. With respect to the landscaped area on the 8th Street
13 median, what's the time line on that?

14 A. It's our feeling that when we would like to install
15 along 8th Street the underground electric lines is somewhere
16 between April of '00 and August -- October of '00. However,
17 we have not coordinated that schedule with the Delta Energy
18 Project, and we're willing to move a little bit to help them
19 out, etcetera, but our difficulty is that we have to be in a
20 position where no later than January 1st, '01, that we're
21 able to transmit energy into the grid for our startup of the
22 plant.

23 BY COMMISSIONER ROHY:

24 Q. Will you have separate transmission lines under 8th
25 Street?

26 A. Yes, sir, we will.

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1 Q. "Separate" meaning separate from Delta Energy?

2 A. Yes, that's correct.

3 BY HEARING OFFICER GEFTER:

4 Q. Some questions based, again, on the AFC, and these

5 things may have changed since the AFC was filed.

6 First question I had is regarding who will operate

7 the project? Because in the initial AFC it said Enron was

8 searching for an operator, that it wouldn't necessarily be

9 Enron?

10 A. That's correct. And we are still searching for that

11 operator. If I can amplify just a second?

12 I think Mr. Parquet testified that we are looking for

13 equity partners. There is the possibility that the equity

14 partner that we will partner with will want to operate this

15 plant, and we are attempting to leave that option open. Of

16 course, if that isn't the case, then we will be working with

17 a different entity to operate and maintain the plant.

18 Q. And then again, testimony previously indicated that

19 the project has chosen the two-on-one configuration as

20 opposed to the one-on-one configuration?

21 A. That's correct.

22 Q. That's now in the project description?

23 A. Yes, ma'am, it is.

24 Q. Can somebody actually describe that to us on the

25 record? Could you go forward and do that?

26 A. Yes. Actually, it's a two gas turbines that behind

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1 it will be an HRSG, Heat Recovery Steam Generator.

2 COMMISSIONER ROHY: Excuse me. One steam generator

3 behind both the gas turbines?

4 THE WITNESS: One steam turbine behind both of them,

5 yes. The steam coming off of both the HRSGs will then feed

6 the common steam turbine.

7 (Discussion off the record.)

8 THE WITNESS: I was just asked to make sure I

9 clarified that there are, in fact, two HRSGs, two gas

10 turbines, and an HRSG behind each of the gas turbines.

11 HEARING OFFICER GEFTER: That's what we understood

12 you to mean.

13 BY COMMISSIONER ROHY:

14 Q. Where do you take the heat from for the USS/POSCO

15 plant?

16 A. We'll be taking it off of the steam turbine, the back

17 end of the steam turbine.

18 Q. So this is very low temperature?

19 A. And low pressure.

20 Q. Low pressure.

21 A. Yes.

22 BY HEARING OFFICER GEFTER:

23 Q. And then the other question: Based on your previous

24 testimony regarding the project's base load operation, is

25 that the intent to be a base load plant?

26 A. We feel that we will make more money if we can

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1 operate and we will like to stay online, but again, it is
2 all based upon our ability to compete in the marketplace,
3 and if we can compete, we'll be running twenty-four hours a
4 day.

5 Q. Also in the AFC and even in staff's testimony
6 regarding Route 11 for the transmission line between the
7 project and USS/POSCO, there were two different routes that
8 were proposed. This is the short line between the project
9 and USS/POSCO to supply electricity to Posco, and it was
10 unclear from both staff's testimony and the AFC which
11 routing line eleven is going to take.

12 A. May I get the drawing out, please?

13 HEARING OFFICER GEFTER: Certainly. We can go off
14 the record for a moment.

15 (Discussion off the record.)

16 THE WITNESS: If I can --

17 HEARING OFFICER GEFTER: Back on the record.

18 THE WITNESS: If I may refer to map 3.2-1 that's in
19 our supplement of December 7th?

20 The route that we're proposing, and actually, I
21 believe we're going to be constructing to, is AF-AJ to H,
22 and that's the Route 11 that you were referring to.

23 BY HEARING OFFICER GEFTER:

24 Q. And the AFC supplement is exhibit what number? I
25 believe it's Exhibit 7, is that the one?

26 MR. THOMPSON: Yes, Exhibit 7.

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1 HEARING OFFICER GEFTER: Just for the record.

2 BY HEARING OFFICER GEFTER:

3 Q. Okay. And again, regarding Route 10, which is the
4 transmission line that delivers electricity to the PG&E
5 switchyard, which is approximately two miles long, again,
6 both staff's testimony and the AFC did not indicate which
7 route you were finalizing the project with.

8 A. We are finalizing Route 10.

9 Q. And what's the route of Route 10? Will you tell us,
10 please.

11 A. Sorry. Starting at our plant on the southwest
12 corner, we will be going overhead transmission line to a
13 point on map 3.2-1 over to a point AG. Then we will go
14 underground, which goes along 8th Street, all the way over
15 to the northwest corner of the Delta Diablo lift station.
16 From that point we will transition above ground and go
17 directly into the Pittsburg substation.

18 Q. Let me go back a minute. You talked about the
19 USS/POSCO's property, that would be Route 10. So there's a
20 Route 10 and a Route 10(A)?

21 A. Yes. There's a 10(A), and 10(A) goes from the Delta
22 Diablo lift station west, then it kind of comes back around
23 along the transmission -- the current transmission route to
24 the Pittsburg substation. That was an alternative that we
25 were looking at, but we will not be putting our power lines
26 down that route.

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1 Q. Okay. Thank you. With respect to 11, there was
2 11(A) also. That was the route that was between the project
3 and USS/POSCO? Is it 12?

4 A. On the map that I'm referring to I don't see an
5 11(A). But the description of coming out of our southwest
6 corner of our power facility going to a point just north of
7 the railroad tracks and then paralleling the north side of
8 the railroad tracks to Columbia.

9 Q. That's the one I looked at that was called Route 12
10 previously, is that the one?

11 A. That's 11. Twelve is actually traversing across the
12 railroad tracks and then going east, and that is not the
13 route we are going to take. We're going to go on the north
14 side of the railroad tracks.

15 Q. And that is Route 11?

16 A. Yes.

17 Q. Just to clear it up for the record. Thank you.

18 And then another question I had, again, there were
19 some alternative routes for your water supply and discharge
20 pipeline, which apparently is about two miles between the
21 project and Delta Diablo Sanitation District Plant.

22 And again, you had indicated two routes, and I want
23 to know which one the project is now finalized?

24 A. The route that we're planning to take is the route
25 that leaves our power facility on the southwest side. We
26 will go down to the point AJ to H, and then we will cross

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1 the railroad tracks and go due south along the bypass road.
2 When we reach the Pittsburgh/Antioch Highway, we will go east
3 to just on the south side of Delta Diablo facility, then we
4 will turn north and go into their facility. Now, we don't
5 have an exact location on the property. We're working out
6 that detail with them.

7 Q. What's the number for this route on the map?

8 A. Okay. It's number four, please.

9 Q. Route 4?

10 A. Yes.

11 Q. Is this the same map we're talking about, map 3.2-1?

12 A. Yes, it is.

13 Q. And this is also located in Exhibit 7, the AFC
14 supplement; is that correct?

15 MR. THOMPSON: That's correct.

16 HEARING OFFICER GEFTER: Thank you.

17 BY HEARING OFFICER GEFTER:

18 Q. I also had another question, perhaps Mr. Wehn can
19 answer this question. The project description talks about
20 using tertiary-treated water from the sanitation district.

21 Can you give us a definition of tertiary-treated
22 water?

23 MR. THOMPSON: We would prefer you ask that question
24 of Mr. Patch.

25 HEARING OFFICER GEFTER: Mr. Patch is still under
26 oath.

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1 MR. PATCH: Yes. Just for clarification, tertiary is
2 the name we suggest means some third treatment. Currently
3 Delta Diablo discharges secondary treatment. The tertiary,
4 the third treatment, would be filtration and disinfection.
5 That's a complete program that is currently ongoing. Delta
6 Diablo is in charge of that. Title 22 requirements,
7 obviously, will be met with water coming to us.

8 I believe it's the regional board of the Department
9 of Health they use the term "recycled water." It's kind of
10 a catch-all for what is either a tertiary-treated or
11 reclaimed. They all seem to fit in the same category.

12 HEARING OFFICER GEFTER: The way it has been describe
13 in the AFC and in staff testimony, it may have been
14 specially treated for the power plant; is that correct?

15 MR. PATCH: It is being treated separately from what
16 otherwise would be the common discharge that Delta Diablo
17 currently discharges today.

18 HEARING OFFICER GEFTER: Any questions from
19 committee?

20 BY COMMISSIONER ROHY:

21 Q. Yes. How is that water used in the proposed project?

22 A. It is the primary supply for the cooling tower
23 makeup, which by far is the largest demand. It's also the
24 supply for the demineralized water system.

25 Q. And the steam that goes to USS/POSCO, is any of that
26 recovered, in any way, the water value?

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1 A. No. There's no condensate return. That is
2 condensate. That's steam. That's demineralized. That
3 water is demineralized prior to coming into the HRSG.

4 Q. There's a requirement for makeup water in the HRSG is
5 directly equivalent to the amount of steam that's used in
6 the plant?

7 A. In addition to the normal blow downs from the HRSG,
8 yes, that's right.

9 BY HEARING OFFICER GEFTER:

10 Q. Question regarding the construction period: What
11 does the applicant anticipate to be the construction period
12 from the date you put the shovel into the ground until the
13 date you get to operation?

14 A. The current schedule we have identified is
15 twenty-four months. Two months involved with engineering
16 prior to actually, I think, receiving the decision. The
17 construction period in the field is eighteen months.

18 Q. And when do you anticipate full scale operations
19 would begin based on the new schedule we talked about this
20 afternoon?

21 (Discussion off the record.)

22 THE WITNESS: Operations of the plant?

23 BY HEARING OFFICER GEFTER:

24 Q. Yes.

25 A. June of '01.

26 HEARING OFFICER GEFTER: Any other questions from the

1 committee? Any redirect from Mr. Thompson?

2 (Discussion off the record.)

3 MR. THOMPSON: Nothing at this time.

4 HEARING OFFICER GEFTER: Staff, are you prepared to
5 present your witness?

6 MR. RATLIFF: Yes. The staff witness is Lorraine
7 White who has been sworn.

8 MS. WHITE: The project that the staff analyzed is
9 the proposed energy district facility five hundred megawatt
10 natural gas combined cycle cogeneration plant. The location
11 of the power facility is on twelve-acre site on East 3rd
12 Street, west of the intersection of East 3rd and Columbia
13 Streets in the city of Pittsburg in eastern Contra Costa
14 County. In addition there will be a twenty-acre temporary
15 construction lay-down area adjacent to the site. This site
16 and the construction lay-down area is entirely on USS/POSCO
17 property.

18 And there are several linear facilities proposed for
19 the facility. Staff directs the committee to figure four,
20 which is a modification of the applicant's map two point --
21 excuse me -- 3.2-1, in which we identify the proposed steam
22 line as Route 3, the proposed reclaimed water supply line as
23 Route 4, the proposed fuel gas line as Route 6, the sanitary
24 sewer and potable water lines as Route 7, the proposed 115
25 kV double circuit interconnection to the PG&E Pittsburg
26 plant substation as Route 10, and the proposed 115 kV single

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1 circuit transmission line and pipeline corridor for service
2 to USS/POSCO as Route 11.

3 The alternatives identified on this map are required
4 as part of this submission that the applicant had to make
5 for alternatives to those sites.

6 Q. Does that conclude your testimony?

7 A. Yes.

8 HEARING OFFICER GEFTER: Do you have any
9 cross-examination by the applicant?

10 MR. THOMPSON: We have none. Thank you.

11 HEARING OFFICER GEFTER: Any other party? Okay.

12 BY HEARING OFFICER GEFTER:

13 Q. I want to get some clarification about the map that
14 you referred to.

15 Are you -- is your testimony that staff has revised
16 map 3.2-1?

17 A. Yes. We revised the map as it was submitted in the
18 supplement December 2nd by the applicant to reflect the
19 clarification by the applicant that, in fact, rather than
20 Route 1 for the -- pardon me -- Route 2. Rather than having
21 Route 2 being the service line for USS/POSCO that that now
22 be the alternate Route 11(B), the proposed line. All of the
23 other facilities are as recommended in the December 7th
24 supplement.

25 Q. So throughout staff's assessment and testimony you
26 refer to these the routes on this map as Route 10 and 11?

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1 A. Yes.

2 Q. I have a question regarding the supplemental
3 testimony. There was actually an amendment to that
4 supplemental testimony filed by -- I see there was
5 supplemental testimony filed that amended your project
6 description testimony in which you stated that the steel
7 lattice towers for hanging the transmission line reduced to
8 seventy-five feet.

9 A. Yes, ma'am.

10 Q. The question arises as to whether changing the height
11 of the towers affects several other areas of staff testimony
12 with respect to, I guess, what is it? Well, EMF is one, and
13 then there's bird mortality or the way, you know, birds
14 flying into the towers. There was some discussion about
15 that earlier.

16 And then with respect to visibility, I understand
17 that these towers were reduced in order to deal with the
18 visibility issues, but I'm wondering whether some of the
19 other issues were considered when the towers were reduced?

20 A. When the project description was changed, other
21 technical areas were notified of the changes. If necessary,
22 changes to those technical areas' testimony were required.
23 They were submitted in the supplement.

24 In terms of specifics on such things as the biology
25 testimony related to bird kills, I would ask that you bring
26 that question up -- there was -- I can't remember the

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1 specifics on the biology change, but I wouldn't be the
2 person to answer those questions anyway. But in terms of
3 the project changes being considered in all other technical
4 areas, they have, in fact, been.

5 Q. With respect to EMF also?

6 A. Yes. Just a point of clarification, if you look at
7 the supplemental testimony and point of clarification to my
8 previous comments on alternatives, the minor changes that
9 would affect alternatives analysis are the ones contained in
10 project description. There is no such thing as a
11 supplemental testimony titled Alternatives. It would be as
12 it relates to Project Description.

13 BY MR. ELLER:

14 Q. May I clarify, Ms. White? The change to testimony
15 for the tower was changing from a seventy-five foot tall
16 steel tubular pole; is that correct?

17 A. Correct.

18 Q. They are no longer discussing lattice towers?

19 A. Correct.

20 MR. ELLER: Thank you.

21 COMMISSIONER ROHY: I'd like to express a bit of
22 confusion on my part on the linear facilities. I've heard a
23 lot of routes and numbers here today.

24 Does map 3.2-1 reflect the applicant's proposed
25 routes, or are there changes to that map, or is there a map
26 I can refer to that will give me all these numbers on one

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1 piece of paper and no alternatives?

2 MR. THOMPSON: Funny you should mention that,
3 Commissioner. We were just talking here about that. We
4 were going to ask if it would be a good idea for us to
5 develop a map that had only our routes on it and maybe in
6 different colors so the reader could pick it up and know
7 what we were doing. And we were going to suggest that we
8 would be more than happy to do that. We think it would make
9 changes clear.

10 COMMISSIONER ROHY: That, from my point of view,
11 would be excellent. If there's some manner we can enter
12 that into the record, perhaps a subsequent hearing?

13 HEARING OFFICER GEFTER: That would be fine.

14 MR. THOMPSON: We can do that next week.

15 HEARING OFFICER GEFTER: And prepare the map and have
16 it sponsored by one of your witnesses, and we can move it
17 into the record.

18 MR. THOMPSON: We'll do.

19 HEARING OFFICER GEFTER: That would be great.

20 COMMISSIONER ROHY: Thank you.

21 (Pause in proceeding.)

22 HEARING OFFICER GEFTER: Are there any other
23 questions from committee on Project Description?

24 MR. THOMPSON: I elect to put on -- I think what it
25 probably says -- that does it for Mr. Wehn. I actually had
26 one or two more witnesses on Project Description.

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1 HEARING OFFICER GEFTER: All right. Well, let's wind
2 up staff's testimony.

3 Are there any more comments for staff? Okay. Let's
4 go back to the applicant, and applicant may proceed with
5 some more direct testimony.

6 MR. THOMPSON: Thank you. Applicant would like to
7 call Mr. Joe Patch previously sworn.

8 BY MR. THOMPSON:

9 Q. Mr. Patch, are you the same Joe Patch who's testimony
10 appears in Exhibit 30 to this proceeding?

11 A. Yes.

12 Q. And under Project Description, you are sponsoring
13 various sections of the AFC identified as Exhibit 1
14 concerning project description; is that correct?

15 A. Yes.

16 Q. Do you have any corrections, additions, or deletions
17 to make to that project description material?

18 A. No.

19 MR. THOMPSON: Mr. Patch is tendered for
20 cross-examination.

21 MR. RATLIFF: No questions.

22 HEARING OFFICER GEFTER: What exactly is Mr. Patch's
23 testimony regarding.

24 BY MR. THOMPSON:

25 Q. Mr. Patch, what is your testimony regarding?

26 A. Patch Incorporated was support services for the PDEF

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1 facility. In this regard we assisted in providing
2 engineering, developing the AFC and technical descriptions
3 in the engineering sections technical portions of the AFC is
4 what I am sponsoring that we were responsible for.

5 HEARING OFFICER GEFTER: Thank you. Are there any
6 cross-examination by staff?

7 MR. RATLIFF: No.

8 HEARING OFFICER GEFTER: Questions from the
9 committee? Okay. Thank you.

10 MR. PITTARD: Susan, maybe I just suggest to staff
11 that they double check on their Transmission Line Safety and
12 Nuisance section before we have testimony. There's
13 reference to a hundred and fifty and a hundred and ninety
14 foot tall towers. We want to make sure you don't need to do
15 something before that hearing.

16 MR. RATLIFF: Thanks.

17 HEARING OFFICER GEFTER: You have another witness?

18 MR. THOMPSON: I have one more very brief. Applicant
19 would like to call Mr. Robert Ray. Mr. Ray has not been
20 sworn.

21 (Witness sworn.)

22 BY MR. THOMPSON:

23 Q. Mr. Ray, please state your name for the record.

24 A. Yes. My name is Robert Ray.

25 Q. Are you the same Mr. Robert Ray whose prepared
26 testimony is in Exhibit 30 to this proceeding?

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1 A. Yes, I am.

2 Q. And would you please describe what your
3 responsibilities are with regard to the PDEF project?

4 A. Okay. I'm the project manager for URS Greiner
5 Woodward-Clyde for preparation of the AFC, including the
6 environmental analyses included in the AFC. I'm also the
7 task leader witness for section 5.4, which is agricultural
8 and soils, and I'm also the sponsor for section 5.18,
9 cumulative impacts, and the environmental portion of section
10 7, which is LORS: Laws, ordinances, regulations, and
11 standards.

12 Q. With regard to project description, you are
13 sponsoring two sections of the AFC, summary of environmental
14 impacts and the introduction to the environmental area; is
15 that correct?

16 A. That's correct.

17 Q. Do you have any corrections, additions, or deletions
18 to make to those two introductory sections?

19 A. I do not.

20 MR. THOMPSON: Mr. Ray is tendered for
21 cross-examination.

22 HEARING OFFICER GEFTER: Staff have any questions?

23 MR. RATLIFF: No questions.

24 HEARING OFFICER GEFTER: Does committee have any
25 questions?

26 Okay. We have no questions, so does that wind up the

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1 testimony on Project Description from all the parties?

2 MR. THOMPSON: It does. I would like to move

3 Exhibits 9 and 10 into evidence, please.

4 HEARING OFFICER GEFTER: Any objection by the staff?

5 MR. RATLIFF: No.

6 HEARING OFFICER GEFTER: Exhibit 9, which is appendix

7 P, property owner information dated December 15th, 1998,

8 sponsored by the applicant and is received into evidence

9 today.

10 And before we go on to Exhibit 10, I wanted to ask

11 the applicant to specifically explain what property owner

12 information refers to.

13 MR. THOMPSON: I believe these are the parcel owners

14 of the -- Exhibit 9, I believe, is the -- maybe I should let

15 Mr. Wehn say it. I think it's the parcel owners along the

16 8th Street corridor; is that correct, Mr. Wehn?

17 (Discussion off the record.)

18 MR. WEHN: Can you excuse us just one second?

19 HEARING OFFICER GEFTER: Off the record.

20 (Discussion off the record.)

21 (A brief recess was taken.)

22 HEARING OFFICER GEFTER: We're back on the record.

23 And we're going to ask the applicant again if he

24 could define for us what Exhibit 9 is.

25 MR. THOMPSON: Mr. Wehn, Exhibit 9?

26 MR. WEHN: Yes. Exhibit 9 is an appendix P, property

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1 owner information, that was filed with our December 7th
2 filing, and it's the property information -- property owner
3 information along 8th Street for the above and underground
4 transmission line.

5 MR. THOMPSON: So Mr. Wehn --

6 HEARING OFFICER GEFTER: In the tentative exhibit
7 list, we have it dated December 15th. Is the correct date
8 December 7th?

9 MR. WEHN: December 7th is -- should be the filing
10 date.

11 HEARING OFFICER GEFTER: Is there any objection to
12 admission of Exhibit 9? Hearing none.

13 (Discussion off the record.)

14 MR. THOMPSON: To clarify, I think December 7th is
15 the date of the document. When we actually filed it with
16 the Commission was the 15th.

17 HEARING OFFICER GEFTER: All right. And then you
18 also wanted to move Exhibit 10 into evidence.

19 MR. THOMPSON: Yes.

20 HEARING OFFICER GEFTER: Any objection to that?

21 MR. RATLIFF: No.

22 HEARING OFFICER GEFTER: Exhibits 9 and 10 are moved
23 into evidence.

24 We're going to move on to the next topic, which is
25 Need Conformance. Parties ready for that?

26 MR. THOMPSON: Yes. Applicant would like to call

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1 Mr. Sam Wehn, previously worn.

2 BY MR. THOMPSON:

3 Q. Mr. Wehn, was the Integrated Assessment of Need
4 section done by you or under your direction?

5 A. Yes, it was.

6 Q. And when you say under your direction, does that
7 include counsel?

8 A. Yes.

9 Q. Thank you. Do you have any corrections, additions,
10 or deletions to make to that material?

11 A. No, I do not.

12 Q. Is it true that applicant has not updated that
13 assessment of need material as we have gone through this
14 period but that the staff's integrated assessment of need is
15 the document that contains the most recent information to
16 our knowledge?

17 A. Yes, it is.

18 MR. THOMPSON: Tender Mr. Wehn for cross-examination
19 on the Integrated Assessment of Need area.

20 HEARING OFFICER GEFTER: Staff have any
21 cross-examination?

22 MR. RATLIFF: No.

23 HEARING OFFICER GEFTER: Comments from the committee?
24 Staff, do you want to present your witness?

25 MR. RATLIFF: Yes. The staff witness is Ron
26 Wetherall. He is -- he did not prepare the testimony. It's

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1 prepared by Connie Leni, who had a family emergency today.

2 Mr. Wetherall will sponsor the testimony.

3 HEARING OFFICER GEFTER: Swear the witness.

4 (Witness sworn.)

5 BY MR. RATLIFF:

6 Q. Mr. Wetherall, you didn't prepare this testimony, but
7 it is true and correct to the best of your knowledge and
8 understanding?

9 A. Yes.

10 Q. Could you summarize it very briefly?

11 A. The Energy Commission and the Warren-Alquist Act
12 require an integrated assessment of need to be performed.
13 The criterion for governing and need conformance is found in
14 the latest electricity report. And since the Pittsburgh
15 District Energy Facility was found to be dated adequate on
16 July 29th, 1998, that the 1996 Electricity Report is the
17 appropriate report. Page 72 of the '96 Electricity Report,
18 the need conformance criterion is summarized as this:

19 During the period when Electricity Report '96 is
20 applicable, proposed power plants shall be found in
21 conformance with the integrated assessment of need as long
22 as the total number of megawatts per hour does not exceed
23 six thousand seven hundred and thirty-seven. Therefore, the
24 Pittsburgh District Energy Facility project shall be in
25 conformance with the ER '96 integrated assessment of need as
26 long as the total number of megawatts permitted, including

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1 this project's capacity, does not exceed six thousand seven
2 hundred thirty-seven at the time the Commission votes to
3 certify the project.

4 Q. Does that conclude your testimony?

5 A. Yes.

6 MR. RATLIFF: The witness is available.

7 HEARING OFFICER GEFTER: Any cross-examination?

8 MR. THOMPSON: No questions.

9 HEARING OFFICER GEFTER: From the committee?

10 Housekeeping question regarding Mr. Wehn's testimony
11 for applicant on need conformance: What exhibit are you
12 referring to?

13 MR. THOMPSON: That is section 1.2 of Exhibit 1, our
14 AFC.

15 HEARING OFFICER GEFTER: We're finished with the
16 topic on need conformance at this point. Thank you.

17 I wanted to ask staff when you are sponsoring a
18 witness, could you refer us to what exhibit that witness'
19 testimony is --

20 MR. RATLIFF: All of our testimony -- at least with
21 possible minor exception, all of our testimony is in two
22 exhibits. That's the staff assessment and the supplemental
23 testimony to the staff assessment. Those are Exhibits 28
24 and 29. If you want, I can repeat that each time, but I
25 think we might just note that now as an explanation where
26 it's all found.

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1 HEARING OFFICER GEFTER: Fine. Just for the record I
2 wanted to identify your exhibits. Okay.

3 The next topic is paleo, and let's begin with the
4 applicant.

5 MR. THOMPSON: Thank you. Applicant would like to
6 call Mr. Brian Hatoff. Mr. Hatoff has not been sworn.

7 (Witness sworn.)

8 BY MR. THOMPSON:

9 Q. Would you please state your name for the record?

10 A. Brian Hatoff.

11 Q. Are you the same Brian Hatoff whose prepared
12 testimony appears in Exhibit 30 to this proceeding?

13 A. Yes, I am.

14 Q. Am I correct that you are sponsoring Exhibit 1,
15 applicant's AFC section 1-5.8, paleontologic resources,
16 Exhibit L to Exhibit 1, paleontological resources, and
17 Exhibit 8, which is a cultural paleontological technical
18 report document?

19 A. Yes, I am.

20 Q. Do you have any corrections, additions, or deletions
21 to make to that material?

22 A. No, I don't.

23 MR. THOMPSON: Mr. Hatoff is tendered for
24 cross-examination in the area of paleontologic resources.

25 HEARING OFFICER GEFTER: Any cross-examination?

26 MR. RATLIFF: No.

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1 HEARING OFFICER GEFTER: I have questions.

2 BY HEARING OFFICER GEFTER:

3 Q. You had filed a request for confidentiality.

4 Is that your Exhibit 8; is that correct?

5 A. Yes.

6 Q. Are the sites that are identified in that

7 confidential document, will they remain confidential

8 throughout the life of the project?

9 A. Yes.

10 Q. And what is the purpose for requesting

11 confidentiality of the site identifications?

12 A. Those site locality information that is in that

13 technical appendix, the confidential technical appendix,

14 those materials were obtained from the repositories at the

15 University of California Museum of Paleontology and

16 California Academy of Sciences in San Francisco, and the

17 locality data are only released to paleontological

18 specialists, scientists working in the field.

19 The rationale behind the confidentiality is that if

20 the information was released to the general public, there is

21 the potential that people that are not in a position to be

22 removing those materials would go to those sites and in an

23 unauthorized manner remove those materials.

24 Q. Will that information contained in the confidential

25 letter be available to the cultural and paleontological

26 scientist who we assign to the project?

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1 A. Yes.

2 HEARING OFFICER GEFTER: Okay. Any other questions

3 for the witness? Any redirect?

4 MR. THOMPSON: None.

5 HEARING OFFICER GEFTER: All right. Staff, are you

6 ready with your witness on paleo?

7 MR. RATLIFF: Staff witness is Mr. Greg Newhouse,

8 needs to be sworn.

9 (Witness sworn.)

10 BY MR. RATLIFF:

11 Q. Mr. Newhouse, did you prepare the portion of the

12 staff assessment, which is also Exhibit 28, which is the

13 portion pertaining to paleontological resources?

14 A. Yes, I did.

15 Q. Is that testimony true and correct to your

16 recollection and belief?

17 A. Yes.

18 Q. Summarize your testimony.

19 A. Yes, sir. The proposed project analysis of

20 paleontologic resources is essentially a CEQA compliance

21 one. Staff has reviewed the applicant's analysis in

22 relation to the requirements of CEQA and looked at it also

23 in addition to consistency with other energy facility siting

24 analyses that we have undertaken.

25 In looking at specific resources, no above-ground

26 paleontologic resources have been identified by the

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1 applicant or staff. However, portions of the project area
2 contain sand, gravel, silks, and clay which are potentially
3 available to the preservation of paleontologic resources.

4 In addition, important paleontologic resources have
5 been found within the general region of the proposed site.
6 Therefore, monitoring and mitigation for the presence of
7 significant fossil materials and implementation of full data
8 and fossil recovery are essential to reduce the potential of
9 the projects impact to a less than significant level.

10 To achieve this, the applicant has proposed a process
11 that addresses what actions will be undertaken upon
12 discovery of any paleontologic resources. Staff has
13 incorporated all of the applicant's proposed mitigation
14 within its proposed conditions of certification.

15 In addition, concerning the facility closure, staff
16 has not proposed any specific considerations, rather the
17 general closure conditions proposed by staff are sufficient
18 to address the paleontologic issues provided.

19 Provided the proposed issues of certification are
20 adopted, the proposed project will comply with all
21 applicable laws, ordinances, standards, and regulations.

22 Q. Does that conclude your testimony?

23 A. Yes, it does.

24 MR. RATLIFF: Witness is available.

25 HEARING OFFICER GEFTER: Cross-examination?

26 MR. THOMPSON: No questions.

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1 HEARING OFFICER GEFTER: Committee?

2 BY MR. ELLER.

3 Q. On the electric transmission routes, I note that you

4 don't discuss the underground transmission route.

5 Was that part of your analysis?

6 A. I don't discuss it in specific. It's the same

7 mitigation or conditions of certification apply to any

8 undergrounding, as well as any structural placements that

9 one would have anywhere along those routes.

10 Q. So your testimony would cover that?

11 A. Oh, yes.

12 MR. ELLER: Thank you.

13 HEARING OFFICER GEFTER: Any other questions from the

14 committee?

15 BY HEARING OFFICER GEFTER:

16 Q. I have a question regarding the proposed conditions.

17 On condition PAL-4 it indicates that prior to the

18 start of construction, there would be training for project

19 managers and other workers who operate ground surfacing

20 equipment, but in the verification section there's no time

21 for that. Usually conditions would contain a time frame

22 when this training would occur.

23 And I was wondering whether you want to amend your

24 condition to include some kind of time line.

25 A. May I take a brief second to review the verification?

26 HEARING OFFICER GEFTER: Thank you. On page 363 of

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1 your testimony.

2 (Pause in proceeding.)

3 THE WITNESS: The intention there is that both --
4 there's kind of a dual thing, so that both prior to
5 construction there's a verification, and then also in the
6 monthly compliance reports that should take care of the
7 necessary confirmation that such training has occurred, and
8 I don't see a need for more specificity, unless you want
9 more.

10 BY HEARING OFFICER GEFTER:

11 Q. With regard to PAL-6 on this page, there's a
12 requirement for delivery for curation of all significant
13 resource materials, and it's unclear where the curation will
14 occur or where these materials will be delivered.

15 Is there something in the verification which will
16 alert one of the scientists working on this as to where this
17 delivery would occur?

18 A. That would all be taken care of as part of the
19 paleontologic resources report and work ongoing through the
20 compliance process as there could be a couple places where
21 those resources would be sent for curation. It's better to
22 leave it general, from our perspective, at this time.

23 HEARING OFFICER GEFTER: Any other questions for the
24 witness?

25 MR. PITTARD: Just one is that as I recall in past
26 practice, we've typically identified the repository for

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1 paleontologic materials. This seems to be different from
2 past practice.

3 THE WITNESS: We have identified the repository in
4 the past. I did not in this one. I can include that if you
5 would prefer. It just seemed in this situation that it
6 would be better to leave it open. We can do that in a
7 paleontologic report so --

8 MR. PITTARD: I was just -- you guys might want to
9 think about it since it deviates so much from past practice.

10 BY HEARING OFFICER GEFTER:

11 Q. Why do you think in this case we don't need to
12 identify the repository?

13 A. Just because there could be a couple options where
14 that repository could occur, depends if there's any
15 resources discovered and what would be the logical
16 organization.

17 Q. Could you identify the names of those repositories?

18 A. Sure, I can provide that information for you.

19 Q. Okay. Tomorrow or next week perhaps you could amend
20 your testimony and include those names --

21 A. Certainly.

22 Q. -- and locations.

23 A. Okay.

24 Q. Thank you.

25 A. No problem.

26 HEARING OFFICER GEFTER: Any other questions of the

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1 witness?

2 MR. THOMPSON: If I could ask a question of

3 Mr. Hatoff?

4 BY MR. THOMPSON:

5 Q. Mr. Hatoff, if you were asked --

6 HEARING OFFICER GEFTER: Sorry. You are asking

7 redirect questions of your witness?

8 MR. THOMPSON: Exactly.

9 BY MR. THOMPSON:

10 Q. If I were to ask you what your preferred repository

11 would be for these paleontologic resources, what would you

12 recommend?

13 A. At this time it would be the University of California

14 Museum of Paleontology.

15 MR. THOMPSON: Thank you.

16 HEARING OFFICER GEFTER: Thank you. So we'll look

17 for your appended testimony before hearings close next

18 Tuesday. Thank you. Okay.

19 The next topic is Cultural Resources. Applicant

20 ready to proceed on that one?

21 MR. THOMPSON: We are, thank you. Applicant would

22 like to call Mr. Brian Hatoff, been previously sworn.

23 BY MR. THOMPSON:

24 Q. Mr. Hatoff, in the area of cultural resources, am I

25 correct that you are still the same Brian Hatoff whose

26 experience is in Exhibit 30?

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1 A. Yes, I am.

2 Q. Cultural resources, you are sponsoring those portions
3 of the AFC Exhibit 1, section 1-5.7 and appendix K, cultural
4 resources, and Exhibit 8, which are the cultural and paleo
5 technical reports?

6 A. Yes, I am.

7 Q. Do you have any corrections, additions, or deletions
8 to make to that material?

9 A. No.

10 MR. THOMPSON: Mr. Hatoff is tendered for
11 cross-examination in area of cultural resources.

12 HEARING OFFICER GEFTER: Do you have any
13 cross-examination, Staff?

14 MR. RATLIFF: No.

15 HEARING OFFICER GEFTER: Questions from the
16 committee? All right.

17 We'll ask staff, then, to present their witness.

18 MR. RATLIFF: Staff witness is Kathryn Matthews. She
19 needs to be sworn.

20 (Witness sworn.)

21 BY MR. RATLIFF:

22 Q. Ms. Matthews, did you prepare the staff testimony in
23 Cultural Resources? I'm sorry, cultural resources, yes.

24 A. I prepared the finished document. It was initiated
25 by another staff member whose name I believe is up there
26 with me, but it was I who completed that.

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1 Q. And you are presenting that testimony today?

2 A. Yes.

3 Q. Was there supplemental testimony as well?

4 A. Yes, there was. After we had prepared the initial
5 testimony, there have been some changes to CEQA related to
6 cultural resources, and the thought was that we should
7 probably bring the testimony up-to-date to try to
8 incorporate those CEQA changes.

9 Q. When you say "CEQA," you mean the CEQA guidelines?

10 A. Yes.

11 MR. RATLIFF: The applicant's testimony appears in
12 Exhibits 28 and 29, the staff assessment and supplemental
13 testimony. I'm sorry, the staff's testimony.

14 BY MR. RATLIFF:

15 Q. Ms. Matthews, is your testimony in the staff
16 assessment true and correct to the best of your knowledge?

17 A. Yes, it is.

18 Q. Could you summarize it briefly?

19 A. Cultural resources is an area that probably is not a
20 term of art. It's something that we have developed here
21 within staff to include archaeological resources of both
22 prehistoric and historic time as well as ethnographic
23 resources which relate to particular ethnic groups. Once
24 upon a time it also included paleontologic resources, and
25 those two areas have been separated.

26 Our concern primarily is with those aspects of the

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1 project that involve disturbing the surface of the ground or
2 digging into the ground and the potential that cultural
3 resources are present. Sometimes we know they are there
4 because they've been recorded previously and they are in the
5 record. Sometimes they've been written about so they are in
6 the literature and we kind of know where those sites are.

7 There is always a potential that when you are
8 digging, you come across something that you had not
9 anticipated, and so we have tried to prepare mitigation
10 measures that can be implemented should something turn up in
11 the process of construction.

12 Another aspect of cultural resources is built
13 structures that may be older than forty-five, fifty years.
14 Some of those have importance locally and some potentially
15 on a statewide basis and potentially even federal basis.
16 The neighborhood in which the project is located, parts of
17 it tend to go back more than fifty years, and there are
18 structures in some of the neighborhoods that are of interest
19 and kind of indicators of their time period. They are
20 probably not the best and most wonderfulest there ever was
21 in the whole world, but they do give you a feel and flavor
22 of a certain historic period.

23 The area itself was used in prehistoric times. The
24 group that is mentioned in the literature, the Bay Miwok,
25 resided and used resources in that area along the river and
26 around the base of the mountain. There have been

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1 prehistoric resources found in the vicinity of the project,
2 although not within either the project site or any of the
3 linear corridors.

4 I think there were seven such cultural resource sites
5 identified within a quarter mile of the project site or
6 linear routes, and during the surveys there was one site
7 that was identified but it has been modified and/or
8 materials removed to the extent that it probably does not
9 represent a resource of value to the extent that it could be
10 listed as a national historic resource.

11 The project most likely will not impact significant
12 cultural resources, but there is always that potential
13 because you are going to be digging into the ground and some
14 things are unknown.

15 Under the changes in the CEQA guidelines, the agency
16 is required to make at least three findings. First of all,
17 to determine if any resources present meet the definition
18 and criteria to be considered a historic resource. And if
19 any such resources are identified, then you have to make a
20 determination, and here they've changed the language: Will
21 a project cause a substantial adverse change in the
22 significance of a historic resource? And then it -- the
23 guidelines go on to describe what constitutes the
24 significant adverse change.

25 And if these things will occur, then it is the
26 obligation of the agency to ensure that some sort of

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1 mitigation measures will be proposed and included in the
2 permit to alleviate the potential for any impacts to
3 cultural resources.

4 At this point we don't really have historic resources
5 of great significance that we know about and the mitigation
6 measures, the conditions of certification, should take care
7 of anything that may be encountered in the course of
8 construction, and with those measures adopted, we think that
9 the project would not have a significant impact on cultural
10 resources.

11 Q. Does that conclude your testimony?

12 A. Yes.

13 MR. RATLIFF: Thank you. Witness is available.

14 HEARING OFFICER GEFTER: Cross-examination?

15 MR. THOMPSON: Nothing, but thank you, Ms. Matthews,
16 for being around after 6:00 tonight.

17 THE WITNESS: Thank you.

18 HEARING OFFICER GEFTER: Does the committee have any
19 questions?

20 BY HEARING OFFICER GEFTER:

21 Q. Some clarification. On page 90 of the revised
22 testimony, the first paragraph, the last sentence is not
23 complete and may have been some sort of typo there.

24 MS. WHITE: Would you repeat that again?

25 BY HEARING OFFICER GEFTER:

26 Q. First paragraph, page 90, last sentence of that

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1 paragraph, it's not complete.

2 A. It would -- I don't have the exact wording because it
3 looks like the computer swallowed up the words, but in
4 effect they walked in transects of approximately fifteen to
5 twenty meters apart.

6 (Discussion off the record.)

7 THE WITNESS: When they are doing a survey, the
8 archaeological folks, the center line for linear facility is
9 identified and they tend to walk on the center line and/or
10 the right-of-way boundary lines and then walk in a
11 crisscross pattern just checking to see what's there. They
12 sometimes -- it depends on the terrain. It depends on the
13 vegetation. Sometimes they will deviate from a straight
14 line and do kind of a jigjog out to the side to find a
15 resource or likely spot, but basically it's to cover that
16 entire right-of-way or project site.

17 BY HEARING OFFICER GEFTER:

18 Q. In the supplemental testimony there's a discussion
19 about ruins of an early 20th century plant in the Cassini
20 operations.

21 Are those considered significant resources?

22 A. There would if there was something really still
23 there. At most it appears that there are foundations. My
24 understanding from reading the technical report that there
25 didn't really seem to be subsurface materials. It's
26 something that would be mapped and recorded and noted in the

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1 record, but it probably -- I don't think it would meet
2 eligibility criteria for listing, but Brian can correct me
3 if I'm --

4 Q. Let me complete my questions of the staff witness,
5 and then we'll go to applicant.

6 On page 101 where you list staff's proposed
7 conditions, there's a reference in the first paragraph,
8 second to last line it refers to the SHPO.

9 Is that the State Office of Historical Preservation?

10 A. Yes, it is. And the term -- the letters
11 interchangeably refer to the officer as well as the office.
12 I believe the officer has the authority but the office, in
13 general, does the analysis and the work.

14 Q. And then on pages 91 and 92 there -- excuse me --
15 pages 91 and 92 there was a reference to the Native American
16 Heritage Commission. Apparently based on your testimony the
17 applicant had requested information and had not heard
18 anything in response.

19 Has staff been in touch with this organization and
20 had any communication?

21 A. We were in touch with the Heritage Commission early
22 in the project and had not received any more information
23 than the applicant at this point. Sometimes that's not
24 unusual.

25 Q. Does it make any difference in terms of your final
26 testimony, or would it make any difference if you heard from

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1 them?

2 A. No. Because within the conditions is -- let's see.
3 The condition that requires preparation of a monitoring and
4 mitigation plan, one of the elements of that plan would be a
5 discussion of the need of Native American monitors, and that
6 would be under -- looks like it's on page 104 cultural, the
7 condition of certification called four, and item D, the
8 discussion of the need for Native American observers or
9 monitors, procedures to be used to select in areas or post
10 mile sections where they would be needed, their roles and
11 responsibilities.

12 Q. The applicant under this condition would be required
13 to send an invitation for them to be observers.

14 Is that how it works?

15 A. Whoever becomes the designated cultural resource
16 specialist who takes on the responsibility for
17 implementation of the conditions would have that
18 responsibility to check and see if there was a need. And
19 then if there seems to be a need, to follow up and find the
20 person to fill that role.

21 Q. On page 109 -- it's CUL-13, page 109, on the
22 verification for that, within ninety days following
23 completion of an analysis, the cultural resource report has
24 to be filed with the Commission. And then it says within
25 seven days after completion of the report it's submitted to
26 the Commission.

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1 I'm wondering why the time line has all these
2 different dates built into it.

3 A. One of the other aspects of mitigation for both
4 cultural and paleo resources is oftentimes the materials
5 that you encounter and collect and/or the data that you
6 acquire in the process of mitigation. You are still in the
7 process of evaluating it or analyzing it long after --
8 sometimes long after the project construction is completed.

9 And the first date is that within ninety days after
10 completion of the analysis, the final report will be
11 completed. Then within seven days after the final report
12 itself is completed, the report would be filed with the CPM
13 for review and approval.

14 Q. I also noticed among the various proposal conditions
15 there are different dates. Some require forty-five days,
16 some require ninety days. I imagine there's a justification
17 for that.

18 A. Because the number of tasks that are involved for the
19 designated specialist are multiple and complex, the intent
20 was to develop a sequential time frame. First you have to
21 identify who the specialist is, and staff needs to make a
22 determination yes, that's an appropriate person.

23 Having identified the person, the project owner needs
24 to provide any -- whatever is the final center lines, final
25 rights-of-way, final project footprints, a set of map for
26 that project person to work from. Based on the map and the

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1 project, they need to prepare the plan. They also need to
2 prepare an education program and just generally get ready to
3 implement mitigation as project construction begins.

4 So the intent was to produce a sequence-based
5 approach rather than have it all lumped together at one
6 time.

7 Q. Thank you for explaining that because it was
8 confusing in reading the conditions. Now that we have that
9 rationale on the record, it would make sense to the
10 applicant and for future project managers who need to look
11 at those conditions.

12 A. Is it something I should perhaps write into future
13 project analyses that these are sequenced because --

14 Q. It would be very helpful. Just in reading the
15 conditions it appeared very confusing. That's why I'm
16 asking the question. And if the rationale for including the
17 sequenced series of events were explained in the staff
18 assessment, that would be helpful. It's sufficient to have
19 testified to that on the record today.

20 A. In future projects. Thank you.

21 HEARING OFFICER GEFTER: Does applicant have any
22 cross-examination of the witness?

23 MR. THOMPSON: No.

24 HEARING OFFICER GEFTER: Do you have any redirect of
25 your own witness?

26 MR. THOMPSON: No.

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1 HEARING OFFICER GEFTER: We're finished with cultural
2 resources, so we may move on. The next topic is Compliance
3 Monitoring and Closure.

4 MR. THOMPSON: Can I ask that Exhibit 8 be admitted
5 into the record?

6 HEARING OFFICER GEFTER: All right. Would you
7 identify Exhibit 8.

8 MR. THOMPSON: Exhibit 8 is cultural and paleo
9 technical reports.

10 HEARING OFFICER GEFTER: Those reports are
11 confidential, so we do not actually have them in hand. They
12 are considered confidential.

13 MR. THOMPSON: That's correct.

14 HEARING OFFICER GEFTER: Any objection by staff to --

15 MR. RATLIFF: No.

16 HEARING OFFICER GEFTER: Exhibit 8 is admitted with
17 the proviso it is confidential information and we won't
18 actually have that in the exhibit box.

19 Ready for testimony on Compliance Monitoring and
20 Closure.

21 MR. THOMPSON: Ready. Applicant would like to recall
22 Mr. Joe Patch, having previously been sworn.

23 BY MR. THOMPSON:

24 Q. Mr. Patch, are you responsible for compliance
25 monitoring and closure, which appears in Exhibit 1 1-3.10 of
26 the Application for Certification?

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1 A. Yes.

2 Q. Do you have any corrections, additions, or deletions

3 to make to that material?

4 A. No.

5 MR. THOMPSON: Mr. Patch is tendered for

6 cross-examination on Compliance Monitoring and Closure.

7 HEARING OFFICER GEFTER: All right. Staff have any

8 cross-examination?

9 MR. RATLIFF: No.

10 HEARING OFFICER GEFTER: Committee?

11 Staff, are you ready with your witness?

12 MR. RATLIFF: Yes. The staff witness is Jeri Scott.

13 (Witness sworn.)

14 BY MR. RATLIFF:

15 Q. Ms. Scott, did you prepare the testimony titled

16 Compliance Monitoring and Closure in the staff FSA?

17 A. Yes, I did.

18 Q. Is that testimony true and correct to the best of

19 your knowledge and belief?

20 A. Yes, it is.

21 Q. Can you summarize it briefly?

22 Do you have some changes to make?

23 A. Yes, I do.

24 Q. Sorry. What changes are those?

25 A. Okay. On page 459 under the title of unexpected

26 temporary closure, fourth paragraph down, I would like to

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1 delete "hazardous material management" and also in the next
2 sentence below delete "waste management," and I would like
3 to insert "facility design paleontology resources." And
4 also on page 460 under unexpected permanent closure, the
5 same deletion and same insertions.

6 Q. With those changes does that complete your testimony?

7 A. Yes.

8 Q. Could you summarize it briefly?

9 A. Yes. Under Public Resources Code section 25532, the
10 Energy Commission is required to establish a monitoring
11 system to assure that facilities are constructed and
12 operated in compliance with regulations, guidelines, and
13 conditions adopted or established by the Commission. The
14 general conditions which includes the compliance and closure
15 plans are the results of that mandate.

16 The general conditions are basically a guideline that
17 explain the responsibilities of the project manager and the
18 CPM, the compliance project manager. It also describes the
19 responsibilities and also covers the facility closure.

20 Basically the general conditions describe what the
21 project manager has to do to show that they have complied
22 with all the conditions of certification.

23 Q. Does that conclude your testimony?

24 A. Yes.

25 MR. RATLIFF: The witness is available.

26 HEARING OFFICER GEFTER: Cross-examination of the

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1 witness.

2 MR. THOMPSON: None from applicant.

3 HEARING OFFICER GEFTER: Committee?

4 BY HEARING OFFICER GEFTER:

5 Q. I have a question on your amendment that page 459 and
6 page 460. You deleted "hazardous materials management" and
7 "waste management" and you added "facility design" and
8 "paleo and cultural resources?"

9 A. No. Just "paleo resources."

10 Q. I have a question where it says in several places for
11 compliance and reaching the CPM, the applicant must file
12 various documents.

13 Is there a specific docket number that they need to
14 file their documents with and should we include that in your
15 conditions?

16 A. The procedure is the docket number of the project
17 during the siting process. We just add a C to it for
18 compliance, and that's what it is. Would you like --

19 Q. That could be included in the conditions that
20 indicate the address for docket unit and docket number with
21 respect to this case.

22 Do you want to amend your testimony and file
23 something by the close of hearing on next Tuesday just to
24 indicate that the docket number 98 AFC dash 1 parens C is
25 the docket number that appears on all of the applicant's
26 filings?

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1 A. Yes.

2 Q. And then on page 456 there was condition which at the
3 very bottom where it says "annual compliance report," and it
4 says "after the air district has issued a permit to
5 operate."

6 When typically does that permit to operate issue, and
7 what does staff have in mind by this language? What time
8 lines are you looking at?

9 A. Okay. That's a good question. Thank you.

10 MS. WHITE: Permits to operate are typically approved
11 by the district after our certification but prior to
12 operation of the facility, well into construction of the
13 facility.

14 THE WITNESS: And staff had in mind for the project
15 owner to submit the annual report following completion of
16 construction and the receipt of that permit.

17 BY HEARING OFFICER GEFTER:

18 Q. Is it stated in your conditions that the annual
19 report will be submitted following completion of
20 construction?

21 A. No, it doesn't specifically state that. It says they
22 are for each year of commercial operation and that follows
23 construction.

24 Q. Should this first paragraph be more specific in terms
25 of when the end reports are expected?

26 A. We could make it more specific.

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1 Q. Could you add that to your supplemental testimony as
2 well in addition to the docket number?

3 A. Yes.

4 Q. Also perhaps on page 456 the first paragraph, have
5 the time requirements more specific. That would be helpful,
6 and again, could you submit that by Tuesday, the last day of
7 our hearings in this session?

8 A. Yes.

9 HEARING OFFICER GEFTER: Thank you. Is there any
10 cross-examination from the applicant?

11 MR. THOMPSON: None.

12 HEARING OFFICER GEFTER: Any other questions of the
13 witness? Okay. Hearing none, this witness is excused and
14 we are --

15 MR. THOMPSON: I do have one minor thing. We have
16 questions. You have made a request from two of the
17 witnesses, Nishimura and Ms. Scott, for additional
18 testimony. Applicant stipulates -- proffered by counsel,
19 and that would be acceptable rather than if anyone wanted
20 one of the witnesses to come down to Pittsburgh.

21 HEARING OFFICER GEFTER: Thank you. That's what I
22 had in mind is for the testimony to be submitted in writing
23 and we would just move it into the record. Thank you very
24 much.

25 Are there any other comments, procedural or any other
26 before we close for the day?

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1 MR. THOMPSON: No. Thank you very much.

2 MS. WHITE: Staff does have a point of clarification:

3 The committee has identified for Monday testimony which I
4 would provide and sponsor on cumulative analysis. There is
5 no separate specifically called out cumulative analysis that
6 has been written by me or is sponsored by any other staff.

7 The cumulative analysis is conducted by the technical
8 experts in various areas which are covered in the staff
9 assessment, and I just wanted to make sure that the
10 committee is aware if they have questions related to
11 cumulative analysis that they be -- they ask the technical
12 experts for the areas in which those questions are
13 appropriately asked.

14 HEARING OFFICER GEFTER: Thank you. Committee is
15 aware that the cumulative impacts analysis are specific to
16 each topic. The reason cumulative impacts was placed on
17 that particular evening in Pittsburgh is because of the
18 prehearing conference. There was quite a bit of discussion
19 about local impacts by members of the public.

20 So what I think we would have to do that evening is
21 ask you to explain this, explain how cumulative impacts are
22 analyzed, and that just the process rather than giving any
23 testimony specifically as to each topic so --

24 MS. WHITE: I have no problem providing that.

25 Does the committee anticipate that specific technical
26 experts would check testimony previous to that?

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REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
) ss.
COUNTY OF SACRAMENTO)

I, KELI RUTHERDALE, a Certified Shorthand
Reporter licensed by the State of California, and empowered
to administer oaths and affirmations pursuant to Section
2093(b) of the Code of Civil Procedure, do hereby certify:

That the said proceedings were recorded
stenographically by me and were thereafter transcribed by me
via computer-assisted transcription;

That the foregoing transcript is a true record
of the proceedings which then and there took place;

That I am a disinterested person to said
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IN WITNESS WHEREOF, I have subscribed my name
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KELI RUTHERDALE
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